

This Guide is dedicated to all the people who wish to participate in CPUC proceedings. We hope this makes their task a little easier.

We wish to express our gratitude to former Assembly Member Gordon Duffy who carried the original legislation which established the Public Advisor's Office, and to Senator Herschel Rosenthal who carried legislation which established the Los Angeles branch of the Public Advisor's Office.

We want to express a special thank you and acknowledgment to Catherine Johnson, the first Public Advisor who single-handedly produced an earlier edition that was the model upon which the current Guide is based. Dan Zingale also deserves special mention for his hard work and contributions to the Guide during his summer internship in our office. We also include special thanks to Natalie Hanson, the first Assistant Public Advisor in Los Angeles, for her guidance and encouragement in beginning this project. Susie Toy, our secretary when the Guide was first completed, also deserves recognition for her dedicated efforts.

Finally, we want to express our heartfelt thanks to the many dozens of CPUC staff who helped us compile and edit this Guide. While we could not have completed this Guide without their help, we are responsible for ensuring the accuracy of the information within. Please let us know of any inaccuracies so we can correct them in future editions.

Public Advisor's Office
January 10, 1989
Revised May, 2000

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CALIFORNIA PUBLIC UTILITIES COMMISSION

	FIRST APPOINTED	TERM EXPIRES
*President Loretta Lynch	1/1/2000	1/1/2005
*Commissioner Richard Bilas	1/2/1997	1/1/2003
*Commissioner Henry M. Duque	4/3/1995	1/1/1997
Reappointed	1/1/1997	1/1/2003
*Commissioner Josiah L. Neeper	9/9/1995	1/1/2001
*Carl W. Wood	6/21/1999	1/1/2005

Executive Director: Wesley M. Franklin

General Counsel: Peter Arth, Jr.

*The five Commissioners of the California Public Utilities Commission are appointed by the Governor and confirmed by the State Senate for six year staggered terms.

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CHANGES AT THE CPUC

The CPUC is changing. In response to both internal and external stakeholders, the way we interact with utilities, consumers and others will continue to change in the coming year. The major changes are summarized below:

SB 177

Senate Bill No. 177, adds a new section 625 to the California Public Utilities Code, effective January 1, 2000. It requires certain utilities that wish to condemn property for the purpose of offering competitive services to first file a complaint with the Commission asking the Commission to find that the proposed condemnation would be in the public interest. This rule applies to the condemnation of both private and public property. (Please check our website at www.cpuc.ca.gov under “Administrative Law Judge Division” for Complaint Form and Manual).

The Commission will conduct a hearing on the complaint, which will include both the presentation of evidence by the utility, property owner(s), and any other parties and an opportunity for public participation on the proposed condemnation of property by the utility. If the Commission finds that the proposed condemnation by the public utility would serve the public interest, the utility may then file an eminent domain action in superior court to condemn the property. However, if the Commission finds that the proposed construction would not serve the public interest, the utility may not file a superior court action to condemn the property, unless the court overturns the Commission’s decision.

If the Commission finds in favor of the utility, and the utility wins an eminent domain action in superior court, the court will generally require the utility to pay the property owner(s) the fair market value of the property condemned. The Commission’s decision on the complaint will address only whether the proposed condemnation would be in the public interest and not the value of the property. The amount to be paid to the property owner(s) for the property will be determined in the court action.

SB 177 generally applies to utilities such as telephone companies, gas and electric companies that wish to condemn the property in order to offer competitive services. SB 177 does not apply to railroads, water corporations, refined oil pipeline corporation and electrical gas or companies. Please check our website under the heading Administrative Law Judge Division for additional information.

AB 301

Assembly Bill 301 was approved by the Governor on September 28, 1999 and took effect January 1, 2000. This law requires the Commission to:

1. permit interested persons to petition the Commission to adopt, amend or repeal a regulation;
2. process these petitions under the Commission’s Rules of Practice & Procedure in effect on January 1, 2000.; and
3. amend its Rules of Practice & Procedures on or before July 1, 2001, to provide more specific procedures for handling these petitions and possibly define more precisely the term “regulation” for the purpose of PUC section 1708.5.

The petition will provide the public with an opportunity to participate in shaping Commission policy under PUC section 1708.5. AB 301 are rules that have “general applicability” and “future effect”.

Examples of regulations that generally meet the above criteria include regulations that apply to a whole class of utilities or to a generic type of service or activity offered by utilities. The Commission will open a formal rulemaking in the near future to develop more specific procedures for handling petitions under Section 1708.5 and to more precisely define the term “regulation”.

A member of the public may initiate a petition under Section 1708.5 by filing a formal pleading with the Commission’s Docket Office. Petitions must be properly titled as “ a petition to adopt, amend, or repeal a regulation pursuant to Section 1708.5. A petitioner must also serve the petition on parties listed on the service list. (Please contact the Public Advisor’s Office for assistance in determining which service list to use).

The Public Advisor’s Office will assist the general public in filing a petition under Section 1708.5.

Please check our website at www.cpuc.ca.gov under the heading “Administrative Law Judge Division” for “Commonly Asked Questions About How To File a Petition To Adopt, Amend, or Repeal a Regulation”. The current Rules of Practice & Procedures is also available on our website under “General and Consumer Information”.

SB 779

SB 779 (“Calderon-Peace-MacBride Judicial Review Act 1998”) took effect on January 1, 1999. SB 779 adds and expands the requirements for public review and comment on draft decisions and resolutions, as well as alternates to proposed decisions. Public Utilities Code Section 311, et seq., contains new requirements for public review and comment. Please refer to the chart which explains SB 779 requirements and implementation. The Commission also issued an Order Instituting Rulemaking (OIR) R.99-02-001 to implement the new statutory requirements. R.99-02-001 proposed amendments to the Commission’s Rules of Practice and Procedure to comply with SB 779. On January 20, 2000, the Commission issued D. 00-01-053 adopting with various changes the proposed rules regarding public review and comment for specified Commission decisions. You can obtain a copy of D.00-01-053 from the Commission’s Central Files or Public Advisor’s Office in Los Angeles and San Francisco.

SB 779 also requires the Commission to make the following items available on its website, effective July 1, 2000:

- The Commission’s Business Meeting Agenda;
- Agenda Item Documents;
- All Decisions, Resolutions and Rulings adopted or issued on or after July 1, 2000,
- Commission’s General Orders (Gos);
- Commission’s Rules of Practice & Procedures; and,
- A docket card listing all documents filed and all decisions or rulings issued in proceeding filed on or after July 1, 1999.

Except for “Agenda Items Document” and “ All Decisions, Resolutions and Rulings adopted or issued on or after July 1, 2000; all of the items listed above are now available on our website. There was a delay in its implementation because the Department of Information & Technology placed an indefinite hold on this project because the Y2K project has top priority. Our webmaster is now working on posting the remaining two documents and will be available on our website by June 30, 2000. Please contact our webmaster, Vickie Lachney at (415) 703-2454, or by electronic mail to val@cpuc.ca.gov or webmaster@cpuc.ca.gov for an update.

A third provision of SB 779 deals with Judicial Review (Appeals) of Commission decisions, making more decisions appealable to the Appellate Courts. Prior to SB 779, many appeals were limited to only the Supreme Court. Public Utilities Code Section 1756, et.seq., in accordance with SB 779, allows any aggrieved party to petition for a writ of review of a Commission Decision in either the Court of Appeal or the State Supreme Court.

Not all of the requirements in SB 779 took effect on January 1, 1999. The law allows for delayed implementation in certain Commission proceedings involving water utilities. Some provisions become effective as late as January 1, 2001. For this reason, the bill has created two and sometimes three different versions of certain code sections, with different implementation dates.

Complete text of SB 779 is available on the California’s Legislature’s internet website. There is a link to that site at the Commission’s website, <http://www.cpuc.ca.gov>. The Commission’s website also contains the complete and current Public Utilities Code.

SB 960

Senate Bill 960, took effect on January 1, 1998. SB 960 changed many of the Commission’s formal procedures. The Commission’s Rules of Practice and Procedure, the Formal Complaint forms, and the information in this Guide have been revised to reflect the changes. If you are already familiar with the Rules, be sure to obtain a January, 1998 revision. Article 2.5, Rules 4 through 8.2 (SB 960 Rules and Procedures) have been added, and other sections have been revised or renumbered. Copies of the Rules of Practice and Procedure are available from the Public Advisor’s Office or the Commission’s internet website, <http://www.cpuc.ca.gov>.

SB 960 also requires the Assigned Administrative Law Judge to prepare and issue a scoping memo by Order or Ruling. The Order or Ruling will describe the issues to be considered and timetable for resolution. Please refer to the appendix for sample forms to describe the scoping memo in an application and complaint proceedings.

Local Telephone Competition

On December 20, 1995, the Commission issued rules designed to open the local telephone market to competition. As this plan is implemented, consumers can choose the company that provides their local service, as they can choose their long-distance provider. Besides introducing the element of competition, the Commission’s plan contains safeguards to protect California consumers from unethical behavior by competing service providers, and requires all competing providers to offer certain minimum standards and services to all customers. The Telecommunications Division area of the Commission’s internet website, <http://www.cpuc.ca.gov>, has more information about this proceeding.

AB 1890 (Electric Restructuring)

In December, 1995, the Commission voted to restructure the electric supply industry in California. In September, 1996, Governor Wilson signed into law Assembly Bill 1890, which contains many elements of the Commission's restructuring plan with additional provisions. The goal is to bring increased choice of providers and lower electric rates to all California consumers. This wide-ranging project separated the industry into 3 distinct entities: Generation, transmission and distribution. Generation, or the actual production of electric power, is now non-monopolistic in nature. Consumers can choose their electric provider or purchase electricity through a wholesale power pool called the Power Exchange. Transmission, the system which carries electricity throughout the state on a large scale, is handled by another new entity, the Independent System Operator or ISO. Distribution and delivery of power at local levels continues to be the responsibility of existing electric companies. The start date for electric competition was March 31, 1998. For more information about this project and the others mentioned above, contact the Public Advisor's Office in San Francisco or Los Angeles, or visit the Commission's internet website at <http://www.cpuc.ca.gov>

Electronic Notice and Access Technical (ENAT) Group

The ENAT group is working to intensify the Commission's use of electronic communications, including the internet, to enable faster, wider dissemination of information regarding all Commission activities. The Commission's internet website already contains a great deal of information about Commission activities and schedules. In the future, we envision a website from which our decisions, resolutions, rulings and general orders could be downloaded, while links to other sites would enable the downloading of tariffs and other documents submitted to the Commission. By providing electronic notice and access, we can reach a broader community, enable more timely communication of documents and deadlines, promote public participation and reduce mailing, copying and associated costs.

Our website, <http://www.cpuc.ca.gov>, has more information about the ENAT project.

WHY INTERVENE?

This guide was put together to help you participate in CPUC proceedings. The Commission encourages your participation and balances the information because your input broadens the base in the Commission's decisions making process.

The Public Advisor's Office was established to provide information and assistant to people who want to participate in CPUC proceedings. While we do not speak on **behalf** of any party, we do provide information and assistant to individuals and groups who want to participate.

What is an intervenor? An intervenor is someone who formally participates in a proceeding before the CPUC.

Why do people intervene in CPUC proceedings? People participate for a variety of reasons, such as dissatisfaction with specific actions of a utility (a service or billing problem) or in an effort to change policy such as (a group of farmers who participated in PG&E's general rate case to lower the rates for agricultural ratepayers). Has anyone successfully intervened in CPUC proceedings? The

answer is yes. The farmers' group mentioned above (now known as The Agricultural Energy Consumers Association) succeeded in changing PG&E's agricultural rates; however, not all groups and individuals who participate in CPUC proceedings are as successful. As the late anthropologist Margaret Mead said, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it's the only thing that ever has."

If we can be of service to you in participating in CPUC proceedings, please contact either our San Francisco or Los Angeles Public Advisor's Office. See page 10 for addresses and telephone numbers.

We have carefully compiled the information in this guide, but you should never let it substitute for your own reading of the California Public Utilities Commission Rules of Practice and Procedure and for confirming specific planned interventions with the Public Advisor's Office in Los Angeles or San Francisco or with other experts on Commission procedures.

OVERVIEW OF PROCEDURAL EVENTS

Categorization of proceedings:

Early in the formal process, each proceeding will be assigned a category. It may be categorized as adjudicatory, ratesetting, or quasi-legislative. Here are brief descriptions of the categories:

Adjudicatory proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

Ratesetting proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future.

Quasi-Legislative proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

The category is most important because it will affect several areas of procedure as the case proceeds. Some affected areas are:

- Ex parte contacts
- Presiding officers
- Proposed decisions and how they may become final decisions
- Appeal of Commission's final decision

Once the category has been determined, the proceeding will follow a certain "track", following the rules which are specific to that category. Article 2.5 of the Rules of Practice and Procedure contains

the rules for each category.

In some cases, (including some proceedings begun before January 1, 1998, Expedited Complaint Proceedings, and proceedings where no hearings will be held), categorization and the other rules in Article 2.5 may not apply. If you are in doubt regarding the category of a proceeding, or if you feel a proceeding has been placed in an incorrect category, or have any other questions, consult the Rules of Practice and Procedure or contact the Public Advisor's Office for assistance.

When a **complaint** is filed with the Commission, the complainant must include a proposed category in the body of the complaint. Complaints alleging violations of statutory law or Commission rules, or challenging the accuracy of a bill are categorized as adjudicatory. Complaints challenging reasonableness of rates are categorized as ratesetting. The Commission categorizes the complaint in the "instructions to answer" which are sent to the defendant. The instructions to answer also identify the assigned Commissioner and the assigned Administrative Law Judge (ALJ). The complainant is also sent a copy of the instructions to answer.

When an **application** is filed with the Commission, the applicant must include a suggested category. Copies are circulated to the Commissioners and the Division Directors. Certain filings (including those which may affect the utility's rates) trigger a requirement that the utility notify its customers about the proposed changes. These notices are inserted with customer bills and are published in local newspapers. The Commission will issue a resolution that preliminarily categorizes the application and preliminarily determines the need for hearing. Any person protesting or responding to an application may include comments or objections to the proposed category, need for hearing, issues to be considered, and proposed schedule. Some applications may proceed without hearings.

Procedural Steps from Prehearing Conference to Commission Decision:

After the Chief Administrative Law Judge assigns an ALJ to the case, a prehearing conference (PHC) is usually held. A PHC is called to schedule hearing dates, establish a service list (see page 86) and to give participants a chance to outline the issues on which they intend to focus. The PHC may be held by telephone (conference call) or in person.

During this time all parties may begin the process of discovery. Discovery is a written request for information made of the applicant or parties to learn more about the factual basis which supports the position of a participant. Data requests (discussed in detail on page 37) are the most common method for requesting information from any other party to the proceeding. If a party refuses to fulfill a data request, you may file a motion to compel the production of documents. Subpoenas and depositions are also used.

The Assigned Commissioner will consider the application, protests, responses, and the prehearing conference statements (if one is held), and will rule on the category, need for hearing, issues and schedule in a scoping memo. The Commissioner will designate the principal hearing officer or presiding officer, as appropriate. This could be either the Assigned Commissioner or an Administrative Law Judge. The ruling, **only as to the category**, can be appealed. (see Rule 6.4 of the Rules of Practice and Procedure.)

Evidentiary hearings are held in many cases. The evidentiary hearings resemble formal

courtroom-style proceedings. Participants do not have to be represented by attorneys nor do they necessarily need to know rules of evidence or courtroom procedures in great detail. The ALJ will often explain procedures to parties who are not familiar with the process. You can also contact the Public Advisor's Office if you have questions on the Rules of Evidence or on courtroom procedures.

At the conclusion of evidentiary hearings there is usually a period during which any party to the proceeding may present its arguments on the case to the Commission. This is usually done in writing by filing "briefs" which provide an opportunity for parties to summarize their points of view based on the evidence in the record.

Oral argument is frequently allowed at the conclusion of hearings in major cases to give the participants a chance to emphasize their main points in person and to rebut arguments raised by other parties in briefs or in oral argument.

After the hearings, the briefs and any oral argument, the presiding officer closes the evidentiary record (submits the case) and writes a draft opinion.

In ratesetting or quasi-legislative proceedings, the draft opinion is called the proposed decision. The proposed decision will be reviewed by the Commission and is published and sent to all parties. The proposed decision is placed on the next agenda 30 days after publication. Parties may submit comments within 20 days of the mailing date pointing out errors in proposed decisions. The presiding officer may make revisions to the proposed decision in response to the comments received. The Commissioners may agree with the proposed decision, or they may submit proposed modifications (known as alternates) for the consideration of their fellow Commissioners. If the proposed modifications are substantial, they must be circulated again for comment. When the Commission meets in public session the Commissioners vote for the proposed decision or for any alternate which has been proposed.

In adjudicatory proceedings in which a hearing was held, the draft opinion is called the presiding officer's decision (POD). The POD is filed with the Commission and served on all parties. Any party to the proceeding may appeal the POD within 30 days of mailing. Any Commissioner may request review of the POD within 30 days of mailing. The purpose of an appeal or request for review is to alert the Commission to potential legal error, so appeals must be specific in pointing out such errors. If no appeal or request for review is filed within 30 days, the presiding officer's decision becomes the decision of the Commission.

In customer complaint cases or in proceedings which are decided without a hearing, the draft opinion is not served on the parties (Code Section 311 (f)). It is listed as an item to be considered on the Commission's meeting agenda, and the text of the draft will be included in the complete agenda package, which is available for reference at Commission Offices or by subscription (See page 55).

The Commission has established a public comment period at the beginning of each Commission meeting. Anyone may comment on items on the meeting agenda with the following exceptions:

- 1) Public comment will not be allowed on any matter which has been the subject of a hearing before the Commission and which involves the adjudication of an individual's personal or property rights, the granting or revocation of an individual's license, or the resolution of

any other issue relating to a specific individual (such as a formal complaint).

2) Public comment will not be allowed from any person or entity who is a formal party, or the agent of a party, in the case underlying the agenda item to be addressed. These individuals or entities have previously been given the opportunity to be heard during the course of the formal proceeding.

3) Executive session items are not subject to public comment.

If you have questions about whether an agenda item falls into one of these exceptions, you may contact the Public Advisor's Office in either San Francisco or Los Angeles.

If you wish to address the Commission you must fill out a speaker card, available at the entrance to the auditorium from the Public Advisor's staff, and return the card before the start of the meeting. Public comment will be heard at the beginning of the meeting, so it is advisable to arrive a few minutes early to fill out the speaker card.

The Commission will allow approximately twenty minutes for public comment. Individuals will be allowed up to 3 minutes. However, the total time allotted for public comment, as well as the time allotted to each individual, may be shortened or extended by the Commission depending upon the number of people wishing to speak, the nature of the issues, and the desire to avoid repetitious or redundant comment.

When your name is called by the President of the Commission, come forward to the podium, state your name and proceed with your comments.

Commissioners may or may not respond to an individual's comments. Commission meetings are recorded and your comments will also be recorded.

If a party to a proceeding (or a nonparty with financial interest, such as a utility shareholder) believes the Commission's decision contains a legal error, then they may apply for rehearing. The application for rehearing must be filed within 30 days of the date the decision is issued (mailed to the parties). The Commission considers applications for rehearing in Executive Session, the closed portion of its regular meeting. It may deny an application for rehearing in whole or in part, clarify or modify the original decision, and/or order additional hearings.

When the Commission issues a decision on an application for rehearing the applicant may, within 30 days of the date the decision is issued (mailed), file an appeal in the form of a petition for a writ of review (known as **certiorari**) with the California Supreme Court, or in adjudicatory proceedings, with the Court of Appeal.

ORGANIZATION OF THE CPUC

Public Advisor's Office/Outreach Officers

Consumer Services Division

Industry Divisions

Office of Ratepayer Advocates

Administrative Law Judge Division

Legal Division

Executive Director's Office

PUBLIC ADVISOR'S OFFICE/OUTREACH OFFICERS

The Public Advisor's Office provides procedural information and advice to individuals and groups who want to participate in formal CPUC proceedings. We also keep the Commission informed of barriers that prevent effective public participation. Our staff can help answer your questions, help you locate information, or refer you to an appropriate staff person. We can also provide you with samples of most types of formal filings. Individuals or groups who participate in CPUC proceedings may be eligible for compensation, if they can show a financial hardship, and if they have made a substantial contribution to a CPUC decision (see page 65). You may contact this office for assistance in filing for eligibility or compensation. Our office has compiled an annotated bibliography of intervenor awards and the proceedings in which they were granted. It is available without charge upon request.

To contact the Public Advisor's Office:

In San Francisco:
505 Van Ness Avenue, Room 5303
San Francisco, CA 94102
(415) 703-2074
Internet: public.advisor@cpuc.ca.gov

In Los Angeles:
320 W. Fourth St., Suite 500
Los Angeles, CA 90013
(213) 576-7056
Internet: public.advisor.la@cpuc.ca.gov

The Public Advisor's Office also includes the Commission's Outreach Program. Outreach Officers inform consumers about how to resolve complaints with utilities, answer questions from the media and public about the CPUC, and work with local government officials to answer constituent inquiries on CPUC-related matters. They make presentations to interested groups about the CPUC and its rules and programs for utility consumers. Outreach Officers also assist the public in participating in Commission proceedings, such as public hearings, town hall meetings, Commissioner office hours, and other events.

To contact the Outreach offices, call or write to:

CPUC Outreach
320 W. Fourth St., Suite 500
Los Angeles, CA 90013
(213) 576-7058
Internet: dds@cpuc.ca.gov

CPUC Outreach
1350 Front Street, Room 4000
San Diego, CA 92101
(619) 525-4309
Internet: jml@cpuc.ca.gov

This Guide describes the various divisions within the Commission. Depending on the nature of the case, some of these divisions may provide you with assistance. Many of these divisions perform other duties. The Public Advisor's Office can assist you with referrals to the appropriate division staff members. The Commission's website, <http://www.cpuc.ca.gov> contains additional information on the structure and functions of the divisions.

CONSUMER SERVICES DIVISION

The Consumer Services Division (CSD) protects the interests of individual consumers by ensuring that providers of utility services operate legally and in the public interest. The Division responds to consumer concerns and anticipates problems in order to prevent them, and provides consumers with information, analysis, conflict resolution, and advocacy services to help them make informed decisions about utility purchases.

The Consumer Affairs Branch (CAB) of the Consumer Services Division handles inquiries, and service or billing complaints (known as informal complaints or IC's) from customers of CPUC regulated utilities. CAB staff will try to resolve disputes with utilities in accordance with the utility's rules (tariffs) and Commission policies. This informal complaint process is used to arrive at a settlement without resorting to the more costly and time consuming formal complaints. If the amount of a bill is in question, you may deposit the disputed amount with the Commission to avoid discontinuance of your service. The utility may not disconnect your service while your dispute is being investigated as long as other amounts for undisputed service are paid on time and you have deposited the disputed amount with the Commission. The Commission will not impound money for complaints concerning rules or service, rate protests or objection to energy sources. If you have deposited money with the Commission, it will be held for 15 days after your informal complaint is closed to allow you time to appeal the staff's findings or to file a formal complaint.

If you have a question or complaint about your telephone, water, gas or electric service or bill which you have not been able to resolve with the utility, you may call, write, or email the CPUC Consumer Affairs Branch at consumer-affairs@cpuc.ca.gov or at:

505 Van Ness Avenue, Room 2003
San Francisco, CA 94102

(415) 703-4973
Toll Free 1-800-649-7570
TDD (415) 703-2032
Internet:

<http://www.cpuc.ca.gov/divisions/csd/>

In Los Angeles, the CAB maintains a local TDD number and has staff available for walk-in assistance. All other CAB inquiries should be directed to the San Francisco address, toll-free number or internet address.

Consumer Affairs Branch/Los Angeles
320 W. Fourth St., Suite 500
Los Angeles, CA 90013

TDD (213) 576-7110

The Consumer Affairs Branch phone hours are 8 a.m. to 5 p.m., Monday through Friday.

INDUSTRY DIVISIONS

The Commission's new regulatory structure creates separate divisions to deal with the areas of **Energy, Telecommunications, Water, Rail Safety/Carriers, and Safety and Enforcement**. The staff of each Industry Division has specialized knowledge and training relevant to the industry they oversee. Each Division will monitor industry trends, provide basic analytical review of utility applications, make recommendations to the Commissioners in the consumers' interests, monitor utilities' compliance with state mandated programs, and represent the Commission in legislative proceedings at the state and federal levels.

OFFICE OF RATEPAYER ADVOCATES

The Office of Ratepayer Advocates (ORA) consists of engineers, auditors, economists, attorneys and other professional staff dedicated to representing the long-term interests of all classes of utility ratepayers: Residential, commercial, agricultural and industrial. ORA works independently of other Commission units. The Director of ORA is appointed by the Governor. The ORA reviews Commission proceedings, determines areas where advocacy is needed, and provides appropriate resources to represent consumer interests. The Commission encourages individuals and groups to participate in its proceedings and present their views. ORA participation ensures representation of ratepayers' interests even if no individual or group participates.

ORA can act as a party to CPUC proceedings which means it can present evidence, testify, and cross-examine witnesses. ORA's recommendations are taken into consideration by the ALJ and the Commission along with those of the other parties. As with other parties, the Commissioners can adopt ORA's position in whole or in part or may reject part or all of its recommendations when making its decision.

If you plan to participate in the evidentiary phase of a Commission proceeding, you may want to talk to ORA staff members who will be familiar with the issues in your proceeding. They may have technical information to help you prepare your case, but they cannot present your case for you. Contact the Public Advisor's Office for a referral to the appropriate ORA staff members.

ADMINISTRATIVE LAW JUDGE DIVISION

The Administrative Law Judges are the hearing officers for most formal proceedings. They organize, schedule and preside over the hearings in an assigned case. The ALJ swears in witnesses, takes testimony under oath, and rules on motions. The ALJ ensures that CPUC rules are adhered to in developing an evidentiary record. The ALJ rules on discovery motions, hears all of the evidence presented by all of the parties, makes recommendations to the assigned Commissioner on the key issues, and prepares a proposed decision for the Commission.

The ALJ is the key person to notify about your planned participation in a proceeding. You may want to contact the Docket Office or the Public Advisor's Office to find out who is the assigned ALJ. You should notify the ALJ at the earliest possible date that you plan to participate. This is usually done by attending the prehearing conference and completing an appearance form, or filing a petition to intervene. The ALJ should be advised of any scheduling problems you may have. If you need to reschedule a presentation or schedule an expert witness, you must notify the ALJ in a timely manner. You may contact the assigned ALJ about procedural matters but you **should not** discuss the issues or the merits of the proceeding outside the hearing room. If you have any doubt about whether or not you are discussing a procedural matter, you should contact the Public Advisor's Office.

LEGAL DIVISION

The Legal Division is divided into six sections: Energy, Telecommunications, Transportation and Water, Trials and Appeals, Enforcement (CSD), Ratepayer Advocacy (ORA) and Office of Governmental Affairs. Legal has multiple responsibilities of both an advisory and advocacy functions.

The **Energy** section serves multiple clients including: (1) the Commission itself; (2) the ALJ Division; (3) the Energy Division; (4) and the general public.

In the advisory capacity, the section serves the Commission, the ALJ Division, the Energy Division, providing legal support in electric industry, natural gas industry, rail safety, transit safety, and passenger related proceedings.

This section also represents the Commission in federal agency proceedings and in appeals from federal agencies involving electric, natural gas.

Lastly, this section provides legal support for the Commission's Office of Governmental Affairs in supporting the Commission's federal and state legislative agenda.

The **Telecommunications Transportation and Water** section also serves multiple clients including: (1) the Commission itself; (2) the ALJ Division; (3) the Telecommunications Division; (4) the Water Division; (5) Rail Safety/Carriers Division and; (6) the general public.

This section has multiple responsibilities similar to those of the energy section, but with the focus on telecommunications transportation and water issues.

The **Trials and Appeals** section has responsibility for analyzing and making recommendations on

applications for rehearing of Commission decisions in all industry areas, and defending the Commission and its authority when Commission decisions are challenged in state or federal trial or appellate courts. It is also responsible for any appeals from court decisions in cases challenging Commission decisions, such as appeals from federal district court decisions to the U.S. Court of Appeal and the U.S. Supreme Court.

The **Enforcement (CSD)** section provides legal services for the Consumer Services Division in connection with enforcement matters and involvement with formal dockets or complaint cases where there are consumer protection issues.

The **Ratepayer Advocacy (ORA)** section provides legal services exclusively to the ORA and other advocacy clients in a variety of forms before the Commission in formal and informal proceedings and advice client's divisions' management on legal issues.

Enforcement and ORA are the advocacy sections of Legal Division.

The **Office of Governmental Affairs** represents the Commission before the State Legislature and Executive Branch, and oversees representation of the CPUC and State of California before the United States Congress and federal agencies. The OGA is located in Sacramento and maintains daily communications with legislators, executive agency managers, and other regulatory stakeholders. The OGA ensures that Commissioners are kept informed of legislative developments as well as keeping the Legislature and administration aware of developments at the Commission.

EXECUTIVE DIRECTOR'S OFFICE

The Executive Director is appointed by the Commission and performs the Commission's executive and administrative duties.

The Executive Director:

1. Supervises and directs the Commission's operations and affairs and expedites all matters within the Commission's jurisdiction.
2. Handles all budgetary and procurement matters relating to personnel, services and material.
3. Presents the Commission budget to the State's fiscal officers and the Legislature.
4. Keeps a complete and true record of Commission actions and issues all necessary process, writs, warrants and notices.
5. Certifies to official acts, and produces records needed at Commission hearings and investigations.
6. Dismisses complaints or applications when all parties are in agreement.

The Executive Director's office is rarely involved in a complaint that you might file at the Commission

HOW TO PARTICIPATE IN A CPUC PROCEEDING

WHAT YOU NEED TO KNOW BEFORE YOU BEGIN

Filing An Appearance

In order to participate with legal standing in a case, you will need to file an appearance. Appearances can only be filed at a hearing or prehearing conference. The ALJ or the court reporter will have the appearance form which you should fill out and return to the court reporter or the ALJ. Once the ALJ begins the hearing, he or she will read out the names of all appearances and may ask the parties the extent to which they intend to participate and the issues they intend to raise.

An appearance may be filed at any hearing in a proceeding. It's best to file an appearance at the earliest possible time, usually at the prehearing conference. In most cases, you will be appearing as an "Interested Party". See page 78 or a sample appearance form.

Once you have filed an appearance form you have legal standing in the proceeding and are known as a party. You are now legally entitled to participate in the hearings. Your name and address will be on the service list (list of all parties in a proceeding). As a party you are entitled to make data requests, file testimony and present witnesses and exhibits, cross-examine other witnesses, file briefs and comments to a proposed decision, and apply for rehearing of a decision. You may also be the recipient of data requests from other parties. Anyone, whether a party or not, may file a petition to modify a decision.

As a party you are responsible for serving all other parties with copies of any documents that you file during the case. (To serve is to deliver by mail, in person or by electronic means).

If you miss the prehearing conference and want to become a party, you can file a Petition to Intervene. Sample Petitions to Intervene are available from the Public Advisor's Office in San Francisco or Los Angeles.

Proceeding Number

Participation at the Commission is identified by specific proceeding. One of the first things you will need to find out is the proceeding number of the case in which you want to participate. You may have learned the number from the notice of rate change in your bill, if not you should contact the Docket Office. Give them the applicant's name, what the application asks for and the approximate date of filing and the docket clerk will be able to tell you the case number. If you have any difficulties or questions you should contact the Public Advisor's Office.

A proceeding number looks like this: A99-01-037, C99-01-006, R95-04-043 or I95-04-044.

The first letter tells you what type of proceeding it is: A means application; C means complaint; R means Order Instituting Rulemaking; I means Order Instituting Investigation.

The number 99 is the year the application was filed; 1 the month, and 037 means it was the 37th application filed in January 1999.

Prior to 1982 all proceedings were numbered numerically; such as, Application 60220, Decision

60221. Between January 1982 and March 1984 proceedings were numbered as they are now and differentiated as to type, such as A82-04-01 and C82-04-01. Because the same number could be assigned to different proceedings, this system was confusing and difficult to work with, and the present numbering system became effective in April 1984.

You will need to use the proceeding number frequently, in every filing you make, to look up filings, correspondence and exhibits, and hearing dates on the calendar, to order transcripts, and when asking questions of staff.

Assigned Commissioner/Administrative Law Judge/Staff

It's also important for you to know the assigned Administrative Law Judge (ALJ), Commission staff, staff attorney and the assigned Commissioner for your proceeding. You can obtain this information from the Docket Office or the Public Advisor's Office.

The most efficient way to handle procedural questions with the ALJ is at the Prehearing Conference (PHC) or evidentiary hearing (EH). That way all parties can respond to your request and are notified of any changes to the schedule. If that's not possible, you may contact the ALJ directly to discuss procedural matters. Issues in the case should not be discussed with the ALJ except in the hearing room in the presence of other parties. See page 41 for a discussion of the Commission's ex parte rules.

These rules impose limitations on, and require disclosure of, written or oral communication between an interested person and a decisionmaker outside the hearing room. Complete definitions of "interested person" and "decisionmaker" can be found in the Rules of Practice and Procedure, available from the Public Advisor's Office. The Public Advisor's Office can assist you in determining which ex parte rules apply to you.

Case Information System

The Commission has a case information computer system which gives summary information about all proceedings. Commission staff who have access to this system can find the assigned Commissioner, assigned ALJ and staff, as well as a brief description of all filings made in the case, and all decisions and rulings that have been made.

Dates: Prehearing Conference; Hearing Schedule; Filing Deadlines

Once you have the proceeding number, you need to find out when hearings are scheduled. Usually a prehearing conference is set to determine the parties, the issues and the preliminary filing and hearing schedule. Hearing dates can be found in the CPUC calendar (a sample is on page 88), or obtained from the Public Advisor's Office or from staff involved in the case. The Daily Calendar can also be found on the Internet. You can access Commission information at these Internet locations:

<http://www.cpuc.ca.gov>
<ftp.cpuc.ca.gov>

Testimony, filing schedules and evidentiary hearing schedules are usually discussed in the prehearing conference and in further hearings. The assigned Commissioner will issue a scoping memo which

details this information following the prehearing conference. Usually, in a general rate case or other proceeding with wide-spread interest and many issues at stake, the ALJ will periodically issue rulings which include the schedule, and other important information about the proceeding.

Your Responsibility as a Party

As a party you are responsible for keeping up to date on the status of the proceeding, meeting filing deadlines, knowing when your issues are scheduled and when to have your witnesses available. The best ways to do so are to attend hearings, read transcripts (see page 33), read ALJ rulings (rulings are generally written, but can be oral). You may also want to find a friend in the proceeding who can fill you in on what's happened if you are unable to attend. You may contact the Public Advisor's Office for additional information and assistance.

TYPES OF PROCEEDINGS AND HEARINGS

This is a brief description of the types of proceedings and hearings at the CPUC, and how you can participate in each. There are other sources which provide more detailed information about types of proceedings, such as the CPUC Handbook, CPUC Rules of Practice and Procedure, and PG&E's Resource (See Bibliography, page 76.)

Advice Letters: (See General Order 96-A)

An advice letter is an informal request made by a utility to change rates or services. Filed by letter, the request either asks for authorization to implement tariff changes approved by a formal CPUC decision or for a Commission resolution to deviate from approved tariff schedules or for permission to offer a new service. The form, content and information on how to file and protest an advice letter are found in General Order 96-A. At this time of writing this Guide the General Order 96-A is being reviewed and changes will be made. Please check our website at www.cpuc.ca.gov or contact the Documents Office at (415) 703-1542 for a copy of the General Order. For a definition of a General Order, see Glossary.

Advice letters are noticed three times a week in the CPUC Daily Calendar (see page 88). The notice includes the advice letter number, a brief description of the request and information about whom to contact for further information about the filing; the effective date of the advice letter, if it is known; and how to file a protest. Copies of advice letters and the related tariff sheets will be provided by the utility upon request to any interested party requesting notification. To request a copy you should contact the Director of Regulatory Affairs of the utility making the filing. (See page 69 for addresses and telephone numbers). A copy should also be available at the utility's local office. We suggest that you call first to be sure.

To inquire about an advice letter filing, call the Energy Division (415-703-1093), Telecommunications Division (415-703-1889) or Water Division (415-703-2028).

Advice letters which are filed in compliance with Commission orders may become effective immediately. Advice letters such as those adding new services become effective 40 days after the date filed unless there is a protest. If requested by a Commission Industry Division, hearings may be required prior to approval of an advice letter.

How to Protest an Advice Letter

To protest an advice letter filing, mail an original letter or telegram to the Chief of the appropriate Division (i.e., "Chief, [Energy, Telecommunications or Water] Division"), to be received no later than 20 days after the date the Advice Letter was filed. An Advice Letter Supplement is not a new filing, and there is no additional protest period unless indicated.

To inquire about a protest, call the Energy Division (415-703-1093), Telecommunications Division (415-703-1889) or Water Division (415-703-2028). To obtain a copy of the protest, you should direct your request to the protestor.

Advice Letter Rate Increase Request, Small Water Companies

The Commission staff has developed an informal process for small water companies to follow in requesting a general rate increase. Small water companies are defined as having 10,000 customer connections or less. This informal process was initiated to encourage these small companies to ask for rate increases to improve their facilities and increase financial stability. Many small companies do not have either the finances or know how to request an increase through the formal application procedure, resulting in unrealistic rates and deteriorating systems.

A small water company may file a draft Advice Letter with the Water Division requesting a general rate increase. A public meeting is held with the following objectives:

- to enable the company to explain the need for the requested increase.
- for the Commission staff to explain the process for approval/disapproval and,
- for the company's customers to ask questions of either the water company or
- the Commission staff and
- the comment on the proposed increase or the quality of service.

If the Commission staff determines that a large percentage of the utility's customers are protesting the proposed increase and/or the quality of service rendered by the utility, they may recommend that the Advice Letter be converted to an application. If the Advice Letter is converted, evidentiary hearings may be scheduled to receive testimony and exhibits from all parties. It should be noted that informal resolution of issues can be beneficial to both the ratepayer and the company as the cost of litigation is reduced or eliminated.

Small water companies may also file an Advice Letter request for a general rate increase without the assistance of the Commission staff. A utility requesting a rate increase by Advice Letter must give notice to its customers stating the present rates and the proposed rates in dollars and percentages and the reasons the increase is needed. The notice must also inform customers that they have 15 days after the distribution of the notice to communicate with the Commission about the proposed increase.

Advice Letters do not normally go to hearing unless protested. A customer or group of customers wanting to protest may write to the Water Division, no later than 20 days after the date the Advice Letter was filed, as noticed in the Commission's daily calendar.

Resolutions (As amended by SB 779 effective January 1, 1999, Section 311, Rules 77.7 (c)(d) and (e) of the Rules of Practice & Procedures; adopted in D00-01-053, January 20, 2000.)

The Commission Industry Divisions prepare Resolutions for the Commission's approval. Resolutions are prepared in response to advice letter filings by utilities and to comply with Commission orders and to address other issues of concern outside of formal proceedings. (For example, resolutions are prepared each year to update the eligibility requirements for universal telephone service.) Copies of resolutions are available from the various tariff units. (see page 60.)

Resolutions are subject to public review and comment under SB 779, effective January 1, 1999.

Applications for rehearing and petitions to modify resolutions may be filed by anyone, using the same rules that apply to appealing other Commission decisions. (See Petitions to Modify, Applications for Rehearing.)

Applications

Utilities must file applications for an authority to do the following:

- for approval of non-standard energy contracts, to issue stock and bonds, and to incur debt.
- to receive a certificate of public convenience and necessity to build a new power plant or transmission lines.
- to form a holding company or transfer ownership of a utility
- to obtain a certificate to operate as a passenger stage corporation and a vessel common carrier.

Please check our website and look under the Industry Divisions for specific types of information. You may contact the Public Advisor's Office for a sample copy of the application.

Performance Based Ratemaking (PBR) and "Incentive" Mechanisms

In the late 1980's the Commission began to experiment with comprehensive PBR mechanisms when it began to institute PBRs for Telecommunications utilities. As various services provided by telephone utilities were being deregulated, the Commission wanted to establish some ratemaking mechanisms which would stimulate a "competitive" environment for the utilities and allow light-handed regulation of the services which were not subject to competition. The Commission experimented with the AER³ in the 1980's as an early predecessor to PBR for electric utilities.

In 1994, the Commission set forth specifically the following objectives for PBRs when it adopted the SDG&E base rate PBR to:

- provide greater incentive than exists under current regulation for the utility to reduce rates.

³ Annual Energy Rate - An electricity rate set once a year in energy cost offset proceedings which recovers a portion of the utility's forecasted fuel and purchased power expenses; it is set a year in advance and cannot be adjusted. The AER is intended to encourage electric utilities to manage prudently their energy expenses.

- provide a more rational system of incentives for management to take reasonable risks and control costs both the long and short run. This includes extending the relatively short-term planning horizon associated with the three-year General Rate Case (GRC) cycle and reducing the company's incentive to add to rate base⁴ to increase earnings.
- energy · pressure the company to operate effectively in the increasingly competitive utility industry. This entails providing greater flexibility for management to take risks combined with a greater assignment of the consequences of those risks to the company.
- reduce the administrative cost of regulation.

The Commission has gradually expanded the types of PBRs and “incentive” mechanisms to include:

- Gas procurement PBRs which replaces the traditional reasonableness reviews of utility gas procurement costs
- Base rate PBRs which replace the traditional GRC, attrition, and cost of capital proceedings
- Nuclear Incentive Mechanisms which replace the traditional reasonableness reviews of nuclear unit capital costs and operation
- Generation and Dispatch PBR to replace the traditional reasonableness review of SDG&E's operation of electric generation and electric purchases, which no longer exists due to electric restructuring.

Base rate PBR's had been applicable to all electric revenue requirements⁵ or rates, but with the implementation of electric restructuring, the base rate PBRs are only applicable to electric distribution revenue requirements or rates. The following are Base Rate PBRs adopted by the Commission:

SDG&E Base Rate PBR (A.92-10-017 authorized by D.94-08-023), terminates 12/31/98.
SCE Base Rate PBR (A.93-12-029/I.94-04-003 authorized by D.96-09-092), operates through 2001.

SoCalGas Base Rate PBR (R.87-11-002, A.95-06-002 authorized by D.97-07-054), operates through 2002.

SDG&E Base Rate PBR (A.98-01-014 authorized by D.99-05-030), operates through

⁴Generally calculated by adding up the original cost of all the physical assets and then subtracting the accumulated depreciation and deferred income tax.

⁵The total amount of revenue needed to pay all operating and capital costs of doing business

2002.

There are seven main components of the base rate PBRs adopted by the Commission:

1. A “starting point” revenue requirement or rate, established in a GRC,
2. A formula to establish revenue requirements or rates which are indexed to some measure of inflation and some measure of productivity, so that rates or revenue requirements may be annually adjusted simply using this formula rather than going through the GRC/attrition process,
3. some type of mechanism whereby the cost of capital can be automatically adjusted rather than going through a cost of capital proceeding,
4. some type of revenue sharing component, whereby ratepayers and shareholders share actual revenues compared to authorized revenue requirement⁶,
5. a reward and penalty system used as an incentive to maintain or improve utility service, safety, and customer satisfaction performance compared to established benchmarks,
6. “Z-factors” and “exclusions”. “Z-factors” allow adjustments to rates or revenue requirements due to significant, unforeseen events, while exclusions are expenses or costs that are subject to PBR indexing.
7. a monitoring and evaluation (M&E) program to determine if the PBR mechanism is working as intended, and if there are changes that need to be made.

The Commission has a M&E program to determine if the PBR mechanism is working as intended, if there are changes which need to be made, if the costs might be included which should not be covered under the PBR. The M&E program usually includes:

- an advice letter filed by the utility near the end of the year which calculates the new revenue requirement for the following year using the PBR update formula;
- an advice letter and performance reports filed in the spring, which provides the results of the previous year’s actual performance compared to the PBR benchmark;
- and a “mid-term” filed near the halfway point of the PBR term which allows for a more

⁶Each PBRs adopted by the Commission include some type of revenue sharing mechanism. The revenue sharing mechanism provides an incentive for the utilities to lower costs and expenses, thereby increasing their “rate of return” (ROR) or “return on equity” (ROE), where ratepayers share in the benefits. If the utility is able to achieve an actual ROR or ROE which exceeds the ROR or ROE authorized by the Commission, its shareholders share the excess revenues with ratepayers. The revenue sharing mechanism specifies exactly how much ratepayers and shareholders get.

comprehensive review of the working of the PBR.

Advice letters, reports, and midterm reviews are subject to review and participation by other parties as well as Energy Division. (Please refer to page 19 or on Advice Letter process)

The Commission is gradually shaping policies related to the structure of PBR. The Commission will continue to use and promote PBRs in most of the utility services, expenses, and costs which remain subject to regulation to replace traditional regulation.

Telecommunications Incentive Based Ratemaking

In 1989, the Commission adopted an incentive based regulatory framework known as the New Regulatory Framework (NRF) for Pacific Bell (Pacific) and GTE California, Inc. (GTE) (D.89-10-031, dated October 12, 1989). Rates established under this new regulatory framework became effective January 1, 1990. The NRF is centered around a price cap indexing mechanism. Under a price cap formula regulation, where prices are adjusted annually for costs increases and/or decreases that are authorized by the Commission.

For many years Pacific and GTE were regulated under cost of service, rate of return regulation. Under that regulation, the Commission set rates based on an in-depth review of each utility's costs, investments, a reasonable return on investment, and the corresponding revenue requirement needs.

The Commission said that the incentive based regulatory framework is superior to the traditional base rate of return method of setting rates for local exchange carriers because:

- Rates will not be directly linked to utility costs
- The new framework utilizes the profit driven incentive for the utility to manage its operations in the most efficient manner possible
- In the beginning of NRF, earnings above a bench mark rate of return would be shared between shareholders and ratepayers, both groups will benefit from this new approach. In D.98-10-026, the sharing mechanism was suspended.

The overall intention of was to form new incentives, streamlined regulation, and provide safeguards for both shareholders and ratepayers, with an established Commission prescribed monitoring program to promote the Commission's regulatory goals⁷

⁷ Commission regulatory goals (1) universal service; (2) economic efficiency; (3) encouragement of technical advance; (4) financial and rate stability (5) full utilization of local exchange network; (6) avoidance of cross subsidies and anti-competitive behavior; and (7) low-

Electric Rate Design Window: (See Decision 89-01-040)

The Commission has established a procedure to consider rate design changes for the major electric utilities. This procedure is known as the Rate Design Window and establishes a five day window when rate design proposals may be submitted for attrition year implementation. The plan is intended to develop reasonable time schedules for processing general rate cases and energy offset proceedings and to consider changes to general rate cases that could ease the burden of issuing year-end decisions. With general rate cases on the way out, this decision may be modified in the near future.

Offset Proceedings

For those areas of utility ratemaking not covered by Performance Based Regulation, there are several types of rate proceedings that occur between general rate case applications. These proceedings result in rate changes based on changes in fuel costs and customer sales since the last general rate case and include the following:

1. ECAC-(Energy Cost Adjustment Clause)

Further discussion of ECAC's may be found in the Briefing Paper published by the Fuels Branch of the Commission's Office of Ratepayer Advocates, formerly the Division of Ratepayer Advocates (see Bibliography, page 76). This document is available from the Public Advisor's Office.

The ECAC was established in the mid-1970's in order to track changes in fuel costs and more accurately reflect such changes in rates.

ECAC's traditionally have two parts. The first part is a one-year forecast of expenditures in order to determine both the Annual Energy Rate (AER) amount and the balancing account collection rate for ratepayers (see Glossary, page 70). ECAC's traditionally do not deal with rate design (see Glossary, page- 71). These issues have been moved to the "Rate Window" proceeding for each utility. The second part is a reasonableness review of utility expenditures over the past year in order to ensure that utilities are minimizing their fuel costs.

ECAC's may consider issues related to fuel costs which could not be completely explored in the general rate case. ECAC's also include annual updates of the incremental energy rates used for pricing electricity supplies from qualifying facilities (QF's).

An ERAM (Electric Revenue Adjustment Mechanism) is a balancing account established by an electric utility to recover through rates its authorized base revenue requirement, regardless of sales levels. With ERAM, the utility's earnings are neither inflated by higher-than-expected sales nor

cost, efficient regulation. (D.95-12-052, 63 CPUC 2d 377, 381 and footnote 2 at 411; also see (D.89-11-031 CPUC 2d 43, 92-115.)

adversely affected by lower-than-expected sales.

2. Gas Proceedings

In December of 1986 the Commission established a new proceeding called ACAP (Annual Cost Allocation Proceeding), later changed to BCAP (Biennial Cost Allocation Proceeding). BCAP's update utility balancing accounts for gas costs. They also make updated sales forecasts. They are the primary rate setting mechanism for the gas industry.

Core customers, usually residential and commercial, have no alternative energy sources. Gas utilities are obligated to incur costs to meet all gas needs of core customers whenever demanded. Non-core customers, usually industrial, have access to alternate energy sources, such as oil, which are often cheaper than gas. Non-core customers are not obligated to purchase gas from the utility.

3. ARA-(Attrition Rate Adjustment)

In the years between their general rate cases, the utilities are allowed to file for rate adjustments to compensate for the effects of inflation. These adjustments are based on certain economic indices which could raise or lower rates.

Settlements/Stipulations: (See Rule 51.1)

Parties to a Commission proceeding may stipulate (or agree) to the resolution of any issue of law or fact material to that proceeding, or may settle on a mutually acceptable outcome to that proceeding, with or without resolving material issues.

Before filing a stipulation the settling parties must convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the stipulation. Written notice of the date, time and place must be furnished at least 7 days in advance to all parties to the proceeding. Notice of any subsequent meeting may be oral, may be less than 7 days in advance and may be limited to prior conference attendees and those parties specifically requesting notice. Attendance at any stipulation or settlement conference is limited to the parties to a proceeding.

Comments on Settlements/Stipulations: (See Rules 51.4 and 51.5)

Whenever a party to a proceeding does not expressly join in a stipulation or settlement proposed for adoption, the party has 30 days from the date of mailing the stipulation or settlement to file comments contesting all or part of the stipulation or settlement and to serve such comments on all parties to the proceeding. Parties have 15 days after the comments are filed to file reply comments. The assigned ALJ may extend the comment period and/or responses or motion and for a good cause.

The party's comments should specify the portions of the stipulation or settlement that it opposes, the legal basis of its opposition and the factual issues that it contests. Parties should indicate the extent of their planned participation at any hearing.

Hearings will be held on the contested issues as soon after the close of the comment period as reasonably possible. The Commission may decline to adopt a proposed stipulation without hearing

whenever it determines that the stipulation is not in the public interest.

Formal Complaints: (See Rules 9-13.2 and Public Utilities Code Sections 1702-1708) (see page 11 or how to file an informal complaint)

A formal complaint is a charge by a person or business or by a government entity that a utility has violated the Public Utilities Code, a Commission decision, or a regulation of the Commission (known as a tariff) or that it has failed to do something required of it. The Consumer Affairs Branch (CAB) and the Public Advisor's Office can provide you with a document which explains how to file a formal complaint.

If requested in your complaint and if administratively possible, the hearing may be held in a location within your community. If you have a situation that prevents you from traveling, please indicate your restriction in your request.

A formal complaint can be rejected by the Docket Office for technical and/or procedural reasons. The Docket Clerk will notify you why it was not accepted and what you must do to correct it. You may be referred to the Commission's "Rules of Practice and Procedure" which is available from the Public Advisor's Office, and is on our website at <http://www.cpuc.ca.gov>.

A utility has 30 days to answer the complaint in writing. A hearing will be held on your complaint unless you reach an agreement with the utility before the hearing, or the ALJ believes there is enough information on which to decide the case and does not need to go to hearing. (The latter rarely happens.)

The burden of proof is on the complainant who is the plaintiff in the matter. The California Evidence Code states that, "a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." **This means that if you allege something in a complaint or application you have the burden of proving it.** You do this by presenting evidence such as, your own testimony or the testimony of others, and by presenting relevant documents. You should have four copies of all documents or exhibits you intend to submit as evidence. The ALJ will listen to all of the evidence from both parties and will decide afterward whether the complainant has met the burden of proof.

In application proceedings the applicant has the burden of proof.

Other parties may intervene in a complaint case by filing a Petition to Intervene setting forth the grounds of the proposed intervention and the position and interest of the petitioner. A Petition to Intervene must be filed at least five days before the proceeding is set for hearing. (See Rule 53.)

Once the hearing process is completed, the ALJ may request briefs or may take the case under submission without briefs.

Most formal complaints are categorized as adjudicatory. In adjudicatory cases, the Presiding Officer's Decision (POD) may become the Commission's final decision without actually being voted upon by the Commissioners. This can happen if the Presiding Officer's Decision is served (mailed to) all the parties and no appeal or request for review is filed within 30 days after the date

of mailing. For more information, see page 45.

If the party is not satisfied with the POD, the party may appeal within 30 days of the date the decision is mailed to the parties of the proceeding. (Rule 8.2 (c)). Appeals and request for review shall set forth the grounds which the party believes that the decision of the Presiding Officer was erroneous or unlawful. The purpose of this appeal is to alert the Commission of a potential error to enable the Commission to correct the error expeditiously. (Rule 8.2 (e)). The Commission will then issue a full decision.

EXPEDITED AND REGULAR COMPLAINT PROCEDURES

The Commission has two kinds of formal complaints: the expedited complaint procedure (ECP) and the regular complaint procedure. The following explains the major differences.

EXPEDITED COMPLAINT

Only for cases where the disputed amount is under \$5000.

No court reporter present.

No attorneys may represent either party.

Hearing held within 14 days after defendant utility's answer is filed.

If appealed by either party, and rehearing is granted, the whole case must be reheard under the regular complaint procedure.

REGULAR COMPLAINT

For any amount.

Court reporter present.

Attorneys **may** represent either party.

No time deadline for holding a hearing.

If appealed by either party, and rehearing is granted, the rehearing will be conducted under these same procedures.

Please note that a complaint that does not indicate a dollar amount will not be docketed as an expedited complaint. If you want your complaint to be heard as an ECP, you must claim a dollar amount, under \$5000.

In filing your formal complaint, **you may request** that your complaint be handled under the Commission's **regular** formal complaint procedure. If you do not indicate which procedure you prefer (and if the amount is less than \$5000) the Docket Office will generally file it as an **expedited complaint**.

The expedited complaint procedure applies only to electric, gas, water, heat and telephone utility

complaints. Transportation matters are not eligible to be handled as expedited complaints.

If your complaint concerns the reasonableness of a utility's rates, it must be signed by the mayor or president or chairperson of the Board of Trustees or a majority of the Council, Commission or other legislative body of the city or city and county or by at least 25 actual or prospective consumers of the utility's service. (See Rule 9 of the Rules of Practice and Procedure.)

When the formal complaint is accepted for filing, the Docket Clerk will issue a case number. If you want the Docket Office to send you an official copy of your complaint with the case number, you should include an extra copy of the complaint with a self-addressed, stamped envelope at the time you file your complaint. The Docket Office will mail a copy of the formal complaint to the defendant, with the instruction sheet directing an answer in 30 days, or 20 days under the expedited procedure. You will receive a copy of the instruction sheet that was sent to the defendant with the case number and the date the answer is due from the defendant. A copy of the defendant utility's answer will be sent to you. The instruction sheet will indicate the Administrative Law Judge (ALJ) that has been assigned to hear your case. If your complaint is a regular complaint, and not an ECP, the instruction sheet will also identify the category assigned to your case. A copy of the defendant utility's answer will be sent to you. The ALJ may schedule a prehearing conference. Prehearing conferences may be held by telephone or in person. A prehearing conference is held to determine the parties, the issues and the hearing schedule. You will be notified of the date, time and location for the hearing.

Under the expedited procedure the hearing will be noticed at the time the complaint is served on the utility. It will be at a regularly scheduled day and time within 14 days after the utility's answer is due. ECP hearings will usually be held every Thursday in San Francisco and every Friday in Los Angeles with some exceptions to this schedule as necessary. If you request your hearing be held in a location other than San Francisco or Los Angeles, it may not be possible to set the hearing within 14 days of the answer but it will be as close to that time frame as possible.

The following information is true for both types of formal complaints. **You have the burden to present your case and prove the utility violated a Commission order or rule.** The ALJ will write a proposed decision for the Commission. The Commission can accept, reject or modify the ALJ's proposed decision. The Commission can award an adjustment to your bill if you prove you are entitled to it (reparations), but it cannot award damages, such as lost wages. The ultimate decision rests with the five Commissioners.

The Commission has the power to award reparations only, as opposed to consequential damages. Reparatory relief is limited to a refund or adjustment of part or all of the utility charge for a service or group of related services. Only a court has the power to award damages for injuries sustained by a party as the result of harmful acts on the part of the utility. If you have questions about the differences between reparations and damages, contact the Public Advisor's Office.

You may file an Application for Rehearing or a Petition to Modify if you do not agree with the outcome of the Commission's decision. (See pages 47 and 48 for a discussion of these proceedings.)

Mobile Home Park Water Complaints

Residents of mobile home parks are technically not customers of the water company that serves their park; and therefore, they cannot complain to the water company.

Park residents, as a group or individually, may file a formal complaint with the Commission against the water company for unreasonable rates and/or rates too high for the quality of service provided. In the latter case, the Water Division would also address the issue of poor service.

Mobile home park residents filing this kind of complaint do not need to obtain 25 signatures.

Participation in Utility Regulatory Matters

If you want to participate in the evidentiary hearings as a party to the proceeding you should attend the Prehearing Conference (PHC) to file an appearance. The ALJ will usually want to know if you intend to present evidence and what issues you intend to develop.

Once you are a party to the proceeding you will need to either attend the hearings or read the transcripts to keep up to date on when issues are scheduled to be heard and when filings are due. Sometimes the ALJ will issue rulings that include this information, (you will automatically receive these rulings as a party if they are issued in writing) but schedules often change at hearing and **as a party it is your responsibility to keep informed.**

Women, Minority and Disabled Veterans Business Enterprises Program (WMDVBE)

The CPUC is required by law to administer a program which encourages greater economic opportunity for women, disabled veterans and minority-owned business enterprises in providing services and supplies to regulated utilities. The CPUC's General Order 156 outlines the rules developed to implement this legislation.

A complaint filed against a utility for violation of the Women, Minority and Disabled Veterans Business Enterprises Program (WMDVBE) provisions must comply with Section 7 of General Order 156 and the Commission's Rules of Practice and Procedure which require that you must first work with the utility administrator of the WMDVBE program to try to resolve the complaint. If that is unsuccessful, you may file a complaint with the Commission but it must allege a violation of General Order 156 or a Commission order or decision. You must also include a statement verifying that you have been unable to resolve the problem with the utility's WMDVBE administrator and if the administrator has given you written notice that he or she cannot help you further, you must attach a copy of that notice to your complaint. You may also file a complaint against the WMDVBE clearinghouse. The Public Advisor's Office can give you more information on this type of complaint proceeding.

Prehearing Conference (PHC)

A prehearing conference is often scheduled to determine the parties, the issues and the preliminary hearing and filing schedules. Appearance forms are usually filed at the PHC. In lengthy and complex proceedings, a second PHC may be scheduled during the course of the proceeding.

Public Participation Hearings

The Commission holds Public Participation Hearings (PPH) to provide the public an opportunity to tell the Commission their views. PPHs are held in general rate cases and other proceedings with widespread public interest. The Commission holds these hearings at locations around the state so as many people as possible have an opportunity to be heard. Customers are notified of the dates and locations in bill inserts. The Public Advisor's Office coordinates the review of mandated utility bill inserts. The objective is to ensure that the notice is accurate, straightforward and written in plain language. Regulated utilities are required by statute, Commission's Rules of Practice & Procedures (Rules 23 & 24) to notify their customers of most proposed rate changes, public hearings on utility applications and other information relating to their service. Public Participation Hearings are also announced on the Commission's Daily Calendar, on our website, <http://www.cpuc.ca.gov> The Commission also sends press releases to the local press. You are encouraged to write your comments to the Public Advisor's Office either by e-mail at public.advisor@cpuc.ca.gov or regular mail if you cannot attend a PPH.

An Administrative Law Judge presides over the PPH; a Commissioner may also be present. Representatives from the utility, the ORA and Public Advisor or Consumer Outreach Officers will also usually be there. In addition to explaining their proposal, utility representatives are available to help with specific service and billing problems. Public Participation Hearings are intended to provide a way for the public to voice their views and concerns. Accordingly, Public Participation Hearings are **not** a forum for parties in a proceeding to address the Commission. The parties have their opportunity during the evidentiary hearings and with their filings of comments, protests, briefs and oral argument.

It's easy to participate in a PPH. There will be a speakers sign-in sheet at the entrance to the hearing room. If you wish to make a statement print your name on the sheet. The ALJ will call the meeting to order, explain the purpose of the hearing, introduce the parties and ask utility and Commission representatives to summarize their positions. The ALJ will then call names off the list. When your name is called, come forward, state and spell your name, then make your statement. A court reporter will record what you are saying. Speak slowly and if you have a written statement, it's helpful if you bring an extra copy for the court reporter. Usually there is no time limit on statements, however if there are many speakers, the ALJ can limit the time for each speaker so everyone has a chance to speak.

Your statement can include your opinion and concerns about the utility's proposal. You may ask questions about the proposal. Questions are answered by the staff, utility and ALJ at the end of all public statements.

The Commission values public comments and opinions and encourages you to speak at the PPH. Your comments, suggestions and recommendations are considered to reach an informed decision.

Evidentiary Hearings

Evidentiary hearings are held in many cases. The evidentiary hearings resemble formal courtroom-style proceedings. Parties present their evidence through direct testimony and exhibits which are sponsored by witnesses. Other parties may question witnesses in an attempt to clarify or challenge aspects of the testimony. The Commission must support its decisions with evidence contained in the evidentiary record developed through the evidentiary hearings. Participants do not

have to be represented by attorneys nor do they necessarily need to know rules of evidence or courtroom procedures in great detail. The ALJ will often explain procedures to parties who are not familiar with the process. You may also contact the Public Advisor's Office to answer your questions on the Rules of Evidence or on courtroom procedures.

Evidence; Rules of Evidence

Evidence is the fact used to prove your case. The Commission may rule on whether or not your evidence can be submitted. Generally there are five types of evidence; judicial notice; testimony of witnesses; writing and documents; material objects or real evidence; presumptions or deductions which the law expressly directs to be made from particular facts.

The Commission generally follows the rules of evidence provided in the California Evidence Code. However, the Commission is not bound by the technical rules of evidence set forth in the code. Reference copies of the California Evidence Code are available at the Public Advisor's Offices and at law libraries.

Exhibits: (See Rules 70 and 71)

Exhibits are evidence to support the arguments you make in a case. You must have someone to testify about the exhibit and undergo cross-examination. The ALJ must approve the exhibit and admit it into evidence. When an exhibit is offered into evidence:

- the original shall be furnished to the ALJ
- a copy shall go to the court reporter and to each party

Copies must be clear and permanently legible, on paper not exceeding 8 ½ x 13 inches in size, or bound or folded to that approximate size. Wherever practicable, the sheets of each exhibit should be numbered, and rate comparisons and other figures set in tabular form.

Witnesses: (See Rules 58 and 68)

Parties may have witnesses and expert witnesses to help develop their position. Witnesses do not have to file an appearance in the proceeding. Witnesses are usually required by the ALJ to provide prepared testimony to all parties before they testify.

Witnesses must be available at the hearing for cross-examination (questioning on their testimony), by other parties.

Witnesses are sworn in at the beginning of their testimony. After the witness has been sworn, oral testimony is conducted by questions and answers. This consists of **direct examination, cross-examination, redirect and recross**. Redirect should be limited to the area covered by cross-examination and recross to the area covered by direct examination.

Direct examination is the essential examination of a witness by the party who called the witness to the stand. The witness must give statements of facts rather than opinions unless qualified as an expert witness.

Cross-examination is ordinarily limited to the scope of the direct examination. Any party may cross-examine any witness.

Witnesses need to be present only on the days of hearing when the issues covered by their testimony are heard. Witnesses may request a time to testify based on their availability. This may be done at the PHC or prior to the hearing. Scheduling is usually done early in the proceeding so the witness knows when to be available. Arrangements generally accommodate availability of witnesses and scheduling should be brought up in the prehearing conference or in the "housekeeping" session at the beginning of each day of hearing.

Rule 58 allows the ALJ to limit the number of witnesses or the time for testimony upon a particular issue.

Transcripts

Transcripts are the verbatim recording of all words spoken while **on the record**. All formal CPUC evidentiary hearings except expedited complaints (see page 28) are transcribed. Transcripts are available for review in Central Files. Transcripts of current proceedings may be ordered from the Reporting Section at a flat rate of \$2.00 per page. Copies of "Daily" transcripts are \$6.00 a page. ASCII disks are available at \$20.00 per transcript only for parties ordering complete transcripts. There is a Transcript Order form on the Appearance Form (see page 78).

The CPUC provides transcripts without charge to public participants⁸ who have received a financial hardship determination (see PUC Code 1804). The Commission asks participants to request only those transcripts related to areas in which they are actively participating or expecting to participate. Participants must inform the Court Reporter in advance when they will need transcripts and when they no longer need them. Parties will be billed for back issues of transcripts.

The Commission's Central Files receives one copy of each transcript in a proceeding. This copy is available to the public, but cannot be removed from the file room. Parties who have a financial hardship determination pending may request copy to check out for 24 hours.

Direct questions about this policy to the Public Advisor's Office.

Oral Argument

Oral arguments are an opportunity for participants to summarize their positions. Oral arguments may be requested by:

- parties in rehearing of adjudicatory proceedings (See Rules 8, 86.3-86.7),
- by parties in ratesetting and quasi-legislative proceedings (See Rule 8(d) or
- by the Commission or a presiding officer (See Rule 76).

⁸ Participants in the Commission proceedings who have received a financial hardship determination in line with the provisions of Division 1, Part 1, Chapter 9, Article 5 (beginning with section 1801) of the Public Utilities Code.

OII and OIR: Order Instituting Investigation/Order Instituting Rulemaking

An OII is an investigation initiated by the Commission to examine specific issues that may lead to new legislation, rate revisions, enforcement of lawful rates, changes in rules or policies, and adoption of new programs or enforcement action.

OII's generally go to hearing.

An OIR is a Commission initiated proceeding to establish new rules.

OIRs may not go to hearing, and frequently only require filing of comments by parties. Examples of issues are:

- the implementation of the deaf/disabled service,
- implementation of the intervenor funding rules and
- implementation of the expedited application procedure.

Forum OII:- Forum to bring telecommunication issues to the Commission's attention.

In 1990 the Commission established a new forum for telephone customers to bring concerns about telephone services to the Commission. OII 90-02-047 explains in detail the types of issues to be addressed in this forum. Examples of appropriate issues for the Forum OII include:

- unbundling of services
- pricing categorization of local exchange services
- the adequacy of current tariff offerings to meet telecommunication needs
- petitions for new services
- petitions to change a tariff or utility rule
- petitions to change or initiate a Commission policy related to Pacific Bell or GTEC
- petitions to change the monitoring system (aside from a matter that would be appropriate for a Petition to Modify the monitoring decision, D.91-07-056)

OII 90-02-047 explains the procedures for filing a petition in the Forum OII. Alleged violations of tariffs and orders and rate-level complaints will still be handled in the informal and formal complaint procedures. To file a petition in the Forum OII:

- Contact Telecommunications Division to see if they can resolve the concern; if they cannot, they will send you a letter letting you know.
- File an original and 7 copies of a Petition in the Forum OII with the Docket Office, along with 7 copies of the letter from Telecommunications Division and a certificate of service. Use the service list for OII 90-02-047 as the service list.

The petition must be consistent with the purposes of OII 90-02-047 and must be specific about the nature and extent of the relief requested and must comply with Article 2 of the Commission's Rules

of Practice and Procedure.

The above proceeding is still ongoing. Please check with the Public Advisor's Office for additional information.

Commission Meetings: (See Rule 78)

The Commission meets to consider and vote on decisions and orders and to take any other necessary action. Meetings are usually held in San Francisco but some meetings may be held at other locations throughout the state. Meetings usually begin at 10 a.m. and are open to the public, but the Commission may hold closed sessions as permitted by law. A schedule of meeting dates is available from the Public Advisor's Office. The schedule is also posted on the Commission's internet website, <http://www.cpuc.ca.gov>.

Review and Availability of Alternates to Proposed Decisions: (AB 2850-Escutia) (Rules 8.1, 8.2, 77.6 and 80) (Public Utilities Code Sections 311 and 311.5 as amended by SB 779)

1) Public review and comment by parties of alternates to proposed decisions (Public Utilities Code Section 311).

2) Availability to the public of agenda item documents prior to the Commission meeting (Public Utilities Code Section 311.5).

An alternate to a proposed decision (PD) is defined as either a substantive revision to a proposed decision that materially changes the resolution of a contested issue; or any substantive addition to findings of fact, conclusions of law or ordering paragraphs.

An alternate must be filed and served on all parties to the proceeding and will be subject to public review and comment before the Commission votes on it. The date of the meeting when the alternate is first scheduled to be considered will be indicated on the first page of the alternate.

If the alternate is served with the ALJ's proposed decision or served at least 30 days before the Commission meeting at which the PD is scheduled to be considered, Rules 77.1 through 77.5 which specify the manner and time for filing comments will also apply to comments on the alternate.

If the alternate is served less than 30 days, but at least 14 days, before the meeting at which the PD will be considered, parties may file comments on the alternate at least 7 days before the Commission meeting. Rules 77.3, 77.4, 77.5 and 77.6 on comments and replies to comments will also apply to comments and replies on alternates. Comments and replies must also comply with Rules 2, 2.1, 2.2 and 2.5 and must be served on all parties (Rule 2.3) and must be separately served on the assigned ALJ and all the Commissioners.

Prior to each Commission meeting, the Commission will make available to the public its agenda, and all draft orders, decisions, resolutions, alternates and written reports appearing on the public portion of the agenda.

You may order the entire public agenda package in hard copy by calling (415) 703-1798. These

agenda packages will be available on the same date (the "distribution date") the agenda is internally distributed and mailed; generally 10-12 days prior to the Commission meeting. The package will contain all public agenda item documents available that day.

The agenda, minus the draft copies, is also available on the Commission's website, <http://www.cpuc.ca.gov>.

If agenda item documents are not ready on the distribution date, they will be available at no charge in of the Commission Courtroom (Escutia Room) on the morning of the Commission meeting.

The charge for a 1 year subscription to the agenda package is \$1,000. You may order a partial agenda package; for example, telecommunication items only for \$500. Intervenor who have a financial hardship either pending or granted are eligible to receive the public agenda package at no charge.

The Commission will also make agenda item documents available for viewing and photocopying (at 20 cents per page) at the Commission's Central Files Room in San Francisco, and in the Commission offices in Los Angeles and San Diego. The packages are mailed to locations outside of San Francisco and will be available a day or two after the distribution date.

Public Comment: (Government Code Section 11125.7)

The Commission has established a public comment period at the beginning of each Commission meeting to give members of the public, who were not parties to a proceeding, an opportunity to comment on items on the Commission agenda. We welcome your comments.

You may comment on any agenda item except:

- 1) Individual complaint cases and license matters that have been to hearing.
- 2) Closed Session items (HEX- and EX- items)
HEX- and EX- items will be noted on the meeting agenda.

If you are unsure whether an item is open for public comment, contact the Public Advisor's Office. You will be asked to complete the bottom part of the speaker form stating that you are not a party or affiliated with a group that has participated in the proceeding related to the item which you wish to address. That you have not been asked to speak by any party to the case.

To comment on agenda items, you need to come in at least 10 minutes before the Commission meeting. Fill out a speaker card, available from the Public Advisor, and return it to the Public Advisor before the meeting begins at 10 a.m. When the Commission's President calls your name, step up to the podium, (at the right corner of the auditorium) state your name and make your comments. You will be allowed up to 3 minutes for your comments. The clerk, to your far left, will hold up cards to tell you when you have a minute remaining and when your time is up. When finished, please leave the podium promptly. The Commission allows 20 minutes for public comment; however, depending on the number of speakers and the issues, your comment period may be shortened or extended.

Commissioners may or may not respond to your statements. All Commission meetings are

recorded, so what you say will also be recorded.

FORMAL FILINGS

As a party to a proceeding you may want to make filings to support your positions. This section describes the types of filings including the CPUC code section or rule pertaining to them. **Filing must comply with Rules of Practice & Procedure.** Contact the Public Advisor's Office at (415) 703-2074 or the Documents Office at (415) 703-1542 to order a copy of the Rules. You can also check our website at www.cpuc.ca.gov and look under "General and Consumer Information" for a complete text. Our website is being redesigned and may look differently after July 1, 2000.

This publication is a guide to make you aware of the Rules and is not the definitive answer on specific questions about participating in a Commission proceeding. Consult the Rules or the appropriate CPUC staff person (such as, the Public Advisor's Office, the Docket Office, the ALJ, or Legal Division) if you are uncertain about a filing.

Data Requests

A data request is a written request for information and is the most common form of discovery at the Commission (See Appendix, page 79 for a sample data request). Discovery means the prehearing process of obtaining information from another party (or parties) which is relevant to the issues in the proceeding or likely to lead to the discovery of relevant information. Data requests can be made **by** any party **to** any party in a proceeding.

A data request and answers to the request are usually made prior to the filing of testimony and before hearings begin. Data requests should be made as early as possible in the proceeding but may be made up to the close of the record. Parties may request any information relevant to the proceeding. There are no deadlines set by the rules; however, the requesting party should specify a reasonable deadline according to the length and complexity of the questions, generally at least seven and no more than thirty days. The ALJ may also set a schedule for making and answering data requests.

There is no requirement in the rules to serve⁹ all parties with the request and the answers. The actual request is made directly to the party. As a courtesy, copies of the request can also be sent to the ALJ. Although it is not required, a copy may be made available to any party upon informal request. The request can be made in letter form, briefly explaining why the requested information is required.

The respondent may answer your request, ask for more time to answer, tell you the information is confidential or say that it's irrelevant to the proceeding. You may make a formal motion which asks the ALJ to make a ruling on whether the request is relevant or likely to lead to discovery of relevant information or to rule on confidentiality. If a party will not respond to a data request you may make a Motion To Compel asking the ALJ to order a response. If the party still refuses to provide the information you may subpoena it. (See page 81 for a sample subpoena form). A subpoena is a more formal method used to compel production of documents or attendance of a witness.

⁹ Service by delivery, mailing a copy of document to party or by electronic means to the party on the service list. (Rule 2.3(b).)

Law and Motion Procedure

By Resolution ALJ-164, effective November 2, 1992, the Commission established a law and motion procedure applicable to any formal matter before the Commission. The specific requirements for filing a discovery related motion are contained in Resolution ALJ-164. A copy of the Resolution along with a sample referral form and hearing notice may be obtained from the Public Advisor's Office. This procedure is intended to resolve discovery disputes among the parties.

The Docket Office will refer the following motions to the Law and Motion ALJ for disposition under this procedure:

- Motions to Compel Discovery
- Motions to Limit Discovery and/or for a protective order
- Motions for Leave to File Under Seal
- Motions for Extension of Time to Comply with Discovery Order

All other rulings will be the responsibility of the ALJ assigned to the proceeding.

Prepared Testimony: (See Rule 68 and Public Utilities Code Section 1701)

Testimony is the information or evidence presented by a witness in a proceeding. Oral testimony takes place in the hearing; prepared testimony is written testimony served on all parties, usually about 10 days before the hearing. The purpose of prepared testimony is to save hearing time.

Prepared testimony should be served on the ALJ, the court reporter, and all parties. The ALJ usually requires two copies although sometimes an ALJ will require three copies, one for the ALJ, one for the formal file and one for the assigned Commissioner. Prepared testimony must be served ten days before the hearing unless other deadlines are set by the ALJ.

Prepared testimony is often in a question and answer format although it may also be in a statement form. The question and answer format is frequently used because it promotes clarity of the party's position and simulates the structure of an actual direct examination of the party. Information about the expertise and background of the witness is also usually included. Sample prepared testimony is available from the Public Advisor's Office.

Subpoenas and Subpoena Duces Tecum: (See Rules 59-61.1)

A subpoena is a legal writ or order requiring one's appearance to give testimony. In most proceedings before the Commission, informal data requests are sufficient to secure documents. Subpoenas are more formal and necessary only when sufficient responses to data requests have not occurred.

A party can subpoena individuals or documents. A subpoena demanding documents is called a subpoena duces tecum. Rule 60 (c) requires that service of a subpoena must be made early enough to allow the witness a reasonable time for preparation and travel to the place of attendance.

Subpoena forms are available from the Chief ALJ's office in San Francisco and from the Public Advisor's Office in Los Angeles. A separate subpoena form is required from each individual. However, you can subpoena all documents requested of a party on one subpoena form.

Before serving the subpoena, fill in all appropriate blank portions of the form(s). Refer to Section 1985 of the Code of Civil Procedure. Copies are available from the Public Advisor's Office.

A subpoena is used when a party will not comply with a Motion to Compel, will not allow an individual to testify who is needed as a witness, or to assure a witness attends a hearing (See page 82).

A motion to quash (set aside) a subpoena may be filed. This is an argument to the ALJ that the witness or documents need not be produced. The ALJ decides whether to grant the motion or not.

Subpoenaed witnesses may be reimbursed for travel and work time at the rate of \$35 per day plus 20 cents per mile for actual miles driven (Section 68093 of the Government Code). If the witness is considered an expert witness, he or she may negotiate a fee.

Section 68093 of the Government Code provides for reimbursement of subpoenaed witnesses at the rate of \$35 per day plus 20 cents a mile for actual miles traveled. If the witness is considered an expert witness, he or she may negotiate a fee.

If a state employee is subpoenaed as an expert witness, the State may require reimbursement of travel and work time. The minimum compensation is set at \$500 plus travel and per diem expenses for each day or part thereof. See Rule 4.2 of General Order 66-C.

A Commissioner or ALJ may require a CPUC employee to appear as a witness without compensation, upon motion or their own initiative.

Motions: (See Rule 45)

A motion is a formal request made of the ALJ or the Commission asking the Commission to take some specific action. Motions can be made for any number of reasons; such as:

- a motion for extension of time to make a filing,
- motion to exclude evidence,
- motion to quash a subpoena,
- motion to dismiss a complaint,
- motion to compel discovery, and
- motion for immediate prehearing conference.

Motions and responses must comply with Rules 2, 2.1, 2.2, 2.3, and 2.5. You must file an original and 7 copies of a motion with a Certificate of Service with the Docket Office and serve copies on all parties. Responses must be filed within 15 days of the date of service of the motion unless the assigned Administrative Law Judge sets a different date for the responses. Samples are available from the Public Advisor's Office.

Oral motions (such as those made in the hearing room) need not be filed or served on parties, but are contained in that day's transcript.

Briefs: (See Rule 75)

Briefs are written arguments summarizing the evidence presented by a party in a case. If the ALJ calls for them, briefs then must be filed in compliance with Rules 2-2.6 of the Rules of Practice and Procedure and served on all parties. The ALJ will set the schedule for the filing of briefs which are due after hearings are completed. There may be several different stages of briefing. Sometimes the ALJ may require briefs at the completion of hearings on a particular issue. Briefs are not evidence, and new material not discussed at the hearings, may not be included in the brief.

Ex parte Communications in Commission Proceedings: (See Rule 1.4 and Article 2.5)

Restrictions apply to communications (written or verbal) with the ALJ, Commissioners and certain other CPUC staff members about substantive issues in your case. Such “ex parte communications”¹⁰ are prohibited in adjudicatory cases. Most formal complaints are categorized as adjudicatory.

Ex parte communications:

- (1) concerns any substantive issue in a formal proceeding, **and**
- (2) takes place between an interested person (like yourself) and a decisionmaker (like the ALJ), **and**
- (3) does not occur in a public hearing, workshop, or other public setting, or on the record of the proceeding, where all interested parties would have the opportunity to attend.

Communications limited to inquiries regarding the schedule, location, or format for hearings, filing dates, identity of parties, and other such nonsubstantive information are likely to be considered procedural inquiries not subject to any restriction or reporting requirement. If you need help in determining the nature of an intended communication, call the Public Advisor’s Office for assistance.

If a proceeding is not classified as adjudicatory, different ex parte rules may apply. In ratesetting cases, some ex parte contacts are allowed but are subject to certain restrictions and must be reported according to specific reporting guidelines. In quasi-legislative cases, ex parte communications are allowed without restriction or reporting requirement.

Pages 43 and 44 contain tables which summarize ex parte rules. The tables also contain useful definitions of “interested persons” and “decisionmakers”.

The complete text of the ex parte rules may be found in the Rules of Practice and Procedure. See Article 1.5 (for ECPs and also for some cases filed before January 1, 1998), and Article 2.5 (for cases

¹⁰ An ex parte communication is a written communication (by letter and electronic mail) or oral communication (by telephone or in person).

filed after January 1, 1998). Contact the Public Advisor's Office if you need assistance.

If a party makes an ex parte communication in a proceeding where such communications are not prohibited, the party must file a notice of ex parte contact within three working days with the Docket Office in San Francisco. The notice must include:

- (1) The date, time and location of the communication, and whether it was oral, written, or a combination;
- (2) The identities of each decisionmaker involved, the person initiating the communication, and any persons present during the communication;
- (3) A description of the interested person's, but not the decisionmaker's, communication and its content, to which description shall be attached a copy of any written, audiovisual or other material used for or during the communication.

In order for an ex parte notice to be timely filed from Los Angeles, it must be filed with the Los Angeles office and a copy of the notice, stamped received by the Los Angeles Office, must be faxed by the party to the San Francisco office by 3:00 pm on the third working day after the communication took place. The only other way for the notice to be timely is if the San Francisco office actually receives an original and 7 copies of the notice by the third working day after the communication took place.

The ex parte rules may vary depending on (1) whether the proceeding was filed before January 1, 1998; and (2) the category of the proceeding. Before attempting to make any contact with a decisionmaker, we strongly advise that you:

- (A) Determine whether the proceeding is subject to SB960;
- (B) Determine the category of the proceeding;
- (C) Consult the Rules of Practice and Procedure; and
- (D) Contact the Public Advisor's Office for guidance.

**Summary of SB 960 Rules
on Ex Parte Communications**

	<u>Adjudicatory</u>	<u>Ratesetting</u>	<u>Quasi-Legislative</u>
Who Makes a Covered Communication?	<p>“Interested Persons” = Applicants, protestants, respondents, petitioners, complainants, defendants, interested parties making a formal appearance, Commission staff of record (ORA and CSD staff assigned to the proceeding/any other staff serving in an advocacy role in an adjudicatory proceeding/does not include industry division staff acting in an advisory capacity), person w/ financial interest, or such persons’ agents, employees; representative of formally organized association intending to influence a Commissioner, even if association is not a party</p>	Same	Not applicable
Who Receives a Covered Communication?	<p>“Decisionmakers” = Any Commissioner, Chief Administrative Law Judge, Assistant Chief Administrative Law Judge, assigned Administrative Law Judge, and Commissioners’ personal advisors</p>	Same, except substantive communications with Commissioners’ personal advisors are not covered for purposes of restrictions but are covered for purposes of reporting	Not applicable
<p>What is a Covered Communication?*</p> <p>*Exception: See next page re communications on categorization</p>	<p>“Ex parte communication”* may be oral or written and must satisfy the following conditions: (1) is on substantive issue (does not include communication on procedural issues); (2) is <u>not</u> in public hearing, workshop, or other public setting, or on official record of proceeding</p>	Same*	Not applicable*

	<u>Adjudicatory</u>	<u>Ratesetting</u>	<u>Quasi-Legislative</u>
What Restrictions Apply?*	Ex parte communications are prohibited	Permitted only in 3 situations: (1)(a) open to all parties (b) w/Comm'r (c) oral (d) at least 3 days' notice (2)(a) individual party (b) oral (c) w/decisionmaker (d) other parties entitled to individual meeting of equal length (3)(a) written (b) w/decisionmaker (c) sent to all parties on same day sent to decisionmaker	None
What Reporting Requirements Apply?*	Not applicable (because ex parte communications are prohibited)	Regardless of who initiated the communication, interested person files original plus 7 copies of a notice of e.p. communication with docket office. Notice must include: date, time, and location of contact; identities of decisionmakers involved, who initiated the contact, and other persons present; and description of the content of the interested person's, but not the decisionmaker's, communication, including a copy of any written, audiovisual, or other material.	Not applicable

*Ex parte communications on categorization are permitted but must be reported.

Comments in Commission Rulemakings: (See Rule 14.5)

Comments should be filed with the Docket Office with a certificate of service attached to the original document filed with the Commission and mailed to all parties. Comments should also be in compliance with the Rules of Practice and Procedure 2, 2.1, 2.2 and 2.5. All pleadings which contain factual assertions should be substantiated. Assertions not based on fact will only be given the weight of argument.

Comments on Proposed Decision: (See Rules 8.1-8.2, 77.1-77.7 and Public Utilities Code Section 311 (as amended by SB 779 to explain the public comment and review requirements)).

In adjudicatory proceedings in which a hearing was held, the presiding officer will prepare a decision which sets forth the findings, conclusions and order. This decision will be filed with the Commission and served on all parties, not later than 60 days after the case is **submitted**. (An adjudicatory proceeding shall stand submitted for decision by the Commission after the taking of evidence, and the filing of briefs or the presentation of oral arguments as prescribed by the Commission or the presiding officer.)

The presiding officer's decision will become the decision of the Commission if no appeal or request for review is filed within 30 days after the date the decision is mailed to the parties in the proceeding. The presiding officer may, at their discretion, authorize the filing of comments on the draft decision or a portion thereof. (Rule 8.2)

Ratesetting or quasi-legislative matter follows the same date of submission as an adjudicatory proceeding except for filing comments. The presiding officer will file a proposed decision within 90 days of submission. (See Rule 8.1)

Parties may file comments on a proposed decision that is released pursuant to Section 311 if the case has been to hearing (except in customer complaint cases).

Comments must be filed within twenty days of the date of mailing of the proposed decision. Comments are limited to 15 pages, except in a general rate case proceeding and major generic investigations. In those instances comments must not exceed 25 pages.

An applicant may file a motion for an extension of the comment period if it accepts the burden of any resulting delay. Any other party requesting an extension of time to comment must show that the benefits of the extension outweigh the burdens of the delay.

Comments must focus on factual, legal or technical errors in the proposed decision and make specific references to the record. Comments proposing specific changes to the proposed decision shall include supporting findings of fact and conclusions of law. In extraordinary circumstances a motion to accept late filed comments may be used.

Replies to comments may be filed five days after comments are filed and must not exceed 5 pages. Replies must be filed and served as set forth in Rule 77.2.

Copies and Service: (Rule 77.2 amended by SB 779)

An original and 4 copies of comments and replies with a certificate of service shall be filed with the Docket Office and copies served on all parties. The assigned Commissioner and Administrative Law Judge shall be served separately. See page 85 for service list information.

Certificate of Service: (See Rule 2.3)

This is a statement swearing that you have mailed copies of your filing to all parties. It must be attached to each copy of the document served, and to each copy filed with the Commission. The Certificate of Service must state:

- the exact title of the document served,
- the place, date, and manner of service, and
- the name of the person making the service.

The Certificate filed with the **original** of the document must also include a list of the names and addresses of the persons and entities served (service list) and must be signed by the person making the service (Rule 2.2). See page 84 for sample Certificate of Service.

The assigned ALJ may direct that service be made by electronic means (Rule 2.3(b)) E-mail addresses are available on our website under the heading "Service Lists".

Verification: (See Rule 2.4)

This is a sworn statement that the information included in your application or complaint is true and accurate to the best of your knowledge at the time. See page 84 for sample verification forms.

Filed and Served: (See Article 2)

These terms are used in the rules, in rulings and in Commission decisions. **"Filed"** is a signed original and 7 copies of your document accepted for filing by the Docket Office. Except in filing a complaint, which requires an original and twelve copies plus two copies for each utility you are filing the complaint against (See Rule 11). Unlike other pleadings, complaints are **"served"** by the Docket Office (See Rule 12.) In all other cases, "served" means you have sent a copy of your document to everyone on the service list, and to the Administrative Law Judge. You must include a certificate of service with your filing as a proof (that you have mailed a copy to everyone on the service list). Include a copy of that service list with the original copy filed with the Docket Office.

If a document is mailed, it must be mailed in time to reach the Docket Office by the filing date. Documents can be mailed or hand delivered to the Los Angeles and San Diego offices with appropriate postage and logged in by the Docket Office by the appropriate deadline.

Deadlines

Filing deadlines specified in the Rules or the Code are normally based on calendar days unless otherwise specified by the ALJ. If the 30th day falls on a weekend or holiday the next business day becomes the due date.

Formal Protests: (See Rules 44-44.6)

A protest is a formal pleading containing:

- 1) an objection to the granting in whole or in part, of the authority sought in an application or petition for modification;
- 2) a request for public hearing;
- 3) an offer of evidence which the protestant would sponsor or elicit at a hearing

A protest does not insure that a hearing will be held. A protest should be filed as soon as possible.

Unless otherwise provided by a rule, decision or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar.

A protest must comply with Rules 2, 2.1, 2.2, and 2.5 and shall include the following:

- protestant's full name, mailing address and telephone number,
- the facts constituting the grounds for the protest,
- the effect of the application on the protestant,
- and why the application may not be justified;
- the facts the protestant would develop at public hearing which could result in denial of the application in whole or part.

Appeals to Commission Decisions: (See Rule 8.2 and Public Utilities Code Section 1731)

SB 779 amended PU Code Section 311, PU Code Sections 1706, 1756 and 1757.

In CPUC proceedings, the Commission's final decision can be appealed. To appeal a final decision in an adjudicatory proceeding, a party must first file an application for rehearing with the Commission. If, after the Commission issues a decision on the application for rehearing, (or 60 days after filing the application for rehearing), the party is not satisfied, he or she may appeal the Commission's decision to the State Court of Appeal, in the District in which he or she resides. The filing party can be the complainant, defendant, respondent, or any intervenor in that proceeding.

In ratesetting and quasi-legislative proceedings, the application for rehearing process must be completed before any further appeal. Appeals should be filed with the California Supreme Court for a writ of certiorari for the purpose of having the lawfulness of the original order or decision inquired into and determined. In these cases, the appeal must be filed within 30 days after the Commission issues (mails) its decision denying the application for rehearing or if the application was granted, within 30 days after the Commission issues (mails) its decision on rehearing.

Application for Rehearing: (See Rules 85-86.2 and Public Utilities Code Sections 1731-1736)

Once the Commission has issued a decision or resolution (see page 20), a party to the proceeding, or any stockholder or bondholder or other party financially interested in the public utility affected, may apply for rehearing in respect to any matter determined in the action or proceeding if a legal error is

asserted. (Anyone may file for rehearing of a resolution.) The Commission may grant and hold rehearing on those matters if in its judgment there is sufficient reason.

Applications for rehearing must specifically set forth the grounds on which you consider the Commission's order or decision to be unlawful. The purpose of an application for rehearing is to alert the Commission to legal error. Vague assertions without citation to the record or the law may be ineffective.

A party must generally first file an application for rehearing with the Commission before going to any other court. The application for rehearing must be filed within 30 days after the date of issuance of the Commission's decision. (The date of issuance is the date the order is mailed by the Commission.) If it is filed 10 or more days before the effective date of the order, the order is suspended until the application for rehearing is either granted or denied. Absent further Commission order, this suspension will lapse after 60 days. The Commission may extend the suspension period.

An original and 7 copies of the application for rehearing and a certificate of service must be filed with the Docket Office and a copy of the application must be served on all parties.

Petitions for Modification: (See Rule 47) (Amended by AB 301, to explain how to file a petition to adopt, amend or repeal a regulation)

Anyone seeking to make changes to the text of a Commission decision or resolution may file a Petition for Modification.

A petition for modification must concisely state the justification for the requested changes and must propose specific wording to carry out all requested modifications to the decision. Factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. (Rule 73). Allegations of new or changed facts must be supported by declaration or affidavit.

A petition for modification must be filed and served on all parties to the proceeding in which the decision proposed to be modified was made. The petition must comply with Rules 2, 2.1, 2.2, 2.3 and 2.5.

A petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, since the effective date of the decision, you must explain why the petition was not filed within one year.

If you were not a party to the proceeding in which the decision proposed to be modified was issued, the petition must state how you are affected by the decision and why you did not participate in the earlier decision.

In response to a petition for modification, the Commission may modify the decision as requested, modify the affected portion of the decision, set the matter for further hearing or briefing, or deny the petition.

Filing a petition for modification does not excuse compliance with the order of the decision proposed

to be modified. The decision remains in effect until the effective date of any decision modifying the decision.

You must file an original and 7 copies of the petition for modification with the Docket Office and the petition must comply with Rules 2-2.5 and 47.

Reassignment of Administrative Law Judge: (See Rules 63.1-63.10)

Under certain conditions, a request may be made to reassign a proceeding to a different Administrative Law Judge (ALJ). The rules about reassignment vary depending on the category of the proceeding. This section will mention the major points involved in petitions for reassignment. For a specific proceeding, refer to the Rules of Practice and Procedure, Article 16, Rules 63.1-63.10.

There are three types of petitions for reassignment:

Petition for automatic reassignment

Petition for reassignment due to past affiliations (Unlimited peremptory)

Petition for reassignment for cause

Petition for Automatic Reassignment: (See Rule 63.2)

In an adjudicatory proceeding, each **party** is entitled to exercise **no more than one** petition for automatic reassignment. Rule 63.2 explains this procedure and provides a format for filing the petition. The petition for automatic reassignment is used if the party believes that he (or she) cannot have a fair and/or expeditious hearing before the ALJ to whom the proceeding is assigned. The petition must be filed and served within ten days of the notice of ALJ assignment (or reassignment).

In a ratesetting proceeding, a **party or anyone declaring the intention in good faith to become a party** may exercise **no more than one** petition for automatic reassignment as described above.

In a quasi-legislative proceeding, the petition for automatic reassignment is not available.

In petitions for automatic reassignment, the only grounds for denial are the timeliness of the petitions.

Unlimited Peremptory Petition for Reassignment: (See Rule 63.3)

This is also referred to as a petition for reassignment due to past affiliations. In both adjudicatory and ratesetting proceedings, any **party** may file, without limit as to number, petitions for reassignment for past affiliation. A party would file this type of petition, supported by a declaration or affidavit under penalty of perjury stating that the then-assigned ALJ:

has served within the previous 12 months in any capacity in an advocacy position at the Commission or has been employed by a regulated public utility; **or**,

has served in a representative capacity in the proceeding; **or**,

has been a party to the proceeding.

The petition must be filed and served in the same manner as the petition for automatic assignment (see Rule 63.2 (a)), and this must be done within ten days of the notice of assignment or reassignment.

The unlimited peremptory petition for reassignment is not available in quasi-legislative proceedings.

Petition for Reassignment for Cause: (See Rule 63.4)

Any **party**, in any adjudicatory, ratesetting or quasi-legislative proceeding, may file this type of petition. As with the unlimited peremptory petition, it must be accompanied by a declaration or affidavit explaining the factual basis for the petition. This type of petition may be filed if item 1 or item 2 applies:

1. The ALJ has a financial interest in the subject matter in a proceeding or in a party to the proceeding. An ALJ is considered to have a financial interest if:

- a. A spouse or minor child living in the ALJ's household has a financial interest; **or**,
- b. The ALJ or his or her spouse is a fiduciary who has a financial interest.

or,

2. The ALJ has bias, prejudice, or interest in the proceeding.

A petition for reassignment for cause must be filed and served in the same manner as the other petitions for reassignment. However, the filing deadline is different. It must be filed no later than 10 days after the facts were discovered or should have been discovered by the petitioner.

An ALJ may ask the parties to waive the reassignment, but may not seek to induce such a waiver.

Ex parte communications regarding the assignment or reassignment of particular ALJ's are prohibited (See Rule 63.9).

If you are considering filing a petition for reassignment, refer to the Rules of Practice and Procedure or call the Public Advisor's Office for assistance.

INFORMATION SOURCES

Central Files

Process Office

Docket Office

Document Office-Price List

Reporting Section

Communications Office

Financial Report Office

Calendar Clerk

Tariff Schedules and Tariff Sheets

Tariff Units in San Francisco

The Written Word

The Los Angeles Office

CPUC Field Offices

CPUC Outreach Offices

Information on the Internet

CENTRAL FILES (also known as Formal Files) Room 2002

Office Hours 8:00 a.m. to 5:00 p.m.

(415) 703-2045

This is the storehouse for filings, decisions, resolutions and transcripts of Commission proceedings. The formal file for each docketed application, complaint or investigation is kept here. These files contain pleadings, exhibits, testimony, decisions, rulings and related correspondence, all of which is the Commission's official record for the particular proceeding. Central Files keeps these files current on a daily basis. Approximately eight years of records are maintained at this office. Older records are kept in storage in Sacramento and may be retrieved on request. You will be charged postage and handling from Sacramento. It takes seven working days or more to retrieve these records from storage. The public may review any of the current filings at this office, or may order copies of decisions and orders from this office at 20 cents per page. There is a \$2.00 minimum charge.

Since these records are widely used by the Commission staff, it is best to call ahead to make sure the material you want to review will be available to you. You should know the proceeding number when you call.

This office has decisions and resolutions issued prior to 1985 on microfilm with two viewers available for public use.

PROCESS OFFICE Room 2000
Office Hours 8:00 a.m. to 5:00 p.m.
Closed 12 Noon to 1:00 p.m.
(415) 703-2021

The Process Office is closed to the public on Commission meeting days between 10 am until 4 p.m.

This office prepares and mails copies of signed Commission orders(proposed decisions, alternates, draft decisions and resolutions) to parties. Parties to a proceeding will automatically receive these documents. This office maintains a **service list** (see Appendix, page 77) of each formal proceeding and mails notices of hearings to all **parties of record** (those on the Service List) after the Calendar Clerk has set a hearing date.

If you are interested in knowing the hearing dates for a particular application, you may write to the process office and request to be notified of the hearing dates for that application. Hearing dates also appear on the Daily Calendar which is now on the internet at <http://www.cpuc.ca.gov> .

The Process Office is responsible for preparing and distributing the Commission's agenda for each meeting, both within the Commission and to the public, in compliance with the **Open Meeting Act** which requires that all agenda items be made public 10 days prior to each meeting and that there be no substitutions or additions after the public notice except on emergency situations. The Commission may meet in closed session for certain matters such as personnel or pending litigation.

DOCKET OFFICE Room 2001
Office Hours 8:00 a.m. to 5:00 p.m.
Telephone Hours 10:00 a.m. to 3:00 p.m.
(415) 703-2121

The Docket Office is the central and critical keeper of records on the status of formal proceedings. All formal pleadings are filed with this office. Formal pleadings can include: applications, complaints, applications for rehearing, petitions for modification, amendments, briefs, protests, responses, statements, motions, various petitions, comments, certain compliance filings and written rulings of ALJ's or assigned Commissioners. An electronic record is made for each new proceeding and all subsequent filings and actions taken will be noted on the record. The Docket Office reviews all incoming documents to make sure they are submitted correctly and comply with the Commission's Rules of Practice and Procedure. If a pleading is not in compliance, Docket Office communicates to the "filer" to bring their pleading to compliance. The Docket Office also issues docket numbers for each application, complaint, investigation or rulemaking and will serve complaints on defendant utilities by certified mail.

Under the direction of the Chief ALJ, the Docket Office also prepares the Assignment List, showing the assigned Commissioner and assigned Administrative Law Judge for each docketed proceeding and prints the Commission's Daily Calendar of hearings and scheduled dates. The Assignment List is available from the Public Advisor's Office in San Francisco and Los Angeles. The Daily Calendar is available for public inspection at the Commission's offices in San Francisco and Los Angeles and may

also be obtained by subscription and is available on the Internet (see page 58). The Calendar will tell you the date, time, place, docket number and type of proceeding, as well as the assigned ALJ, assigned Commissioner, and a brief description of the matter. It also shows the decisions and resolutions issued at the twice monthly Commission meetings. (See page 88)

The Docket Office will also answer telephone inquiries about applicable rules and their definitions, filing fees, status of filings and assignment matters. If you have any questions about the information to be included in your filing, contact the Docket Office or the Public Advisor's Office.

COMMUNICATIONS OFFICE

Office Hours: 8:00 a.m. to 5:00 p.m.

San Francisco Contacts: Armando Rendon (415) 703-1366

Margaret Gidding (415) 703-1072

Los Angeles Contact: Kyle DeVine (213) 576-7050

The main function of the Communications Office is to act as a liaison and disseminate information to the media about Commission decisions, events, meetings, etc. To do this, Communications Office personnel write and release a variety of materials that include consumer advisories and news releases to the media, consumer advocacy groups, and interested parties.

This office also answers questions from media and assists them in getting the information and/or interviews they are requesting.

News releases and consumer advisories are posted on the CPUC Website for easy reference at www.cpuc.ca.gov.

REPORTING SECTION ROOM 4105

Hearing Hours: 9:00 a.m. to 12 p.m.

1:30 p.m. to 3:30 p.m.

The Reporting Section coordinates hearings with the Calendar Clerk and prepares transcripts of formal hearings, including public participation hearings (PPH). The Court Reporter develops the service list from the appearance forms completed during formal hearings. If no hearing is scheduled for a specific proceeding, contact the assigned Administrative Law Judge to be added to the service list. You may also request in writing to the Process Office to add your name on the service list. The service list is available from our website at www.cpuc.ca.gov under the heading "Service List".

Transcripts are made for formal hearings and PPHs. Transcripts are available for purchase at a rate of \$2.00 per page for two-week turnaround or \$6.00 per page for next-day delivery. Special transcript requests should be directed to the Chief Reporter - Lynn Stanghellini at (415) 703-1473.

The Court Reporter records your statements verbatim, so it is important to speak clearly in order to record your statements accurately.

If you wish to speak at the hearings, read a statement, or submit a written statement you need to give an extra copy of your exhibits and related documents to the Court Reporter at the time of the hearing.

The Reporting Section also provides real time captioning service.

Documents Price List

How to Order

Enclose check with order form.
In person: Prepay cashier, Room
3000; dial 3-1713 at Documents
Counter on 1st floor. Clerk
will provide items.

Most documents also available from:
CPUC Los Angeles Office
320 W. Fourth Street, Suite 500
Los Angeles, CA 90013
(213) 576-7000

SUBSCRIPTIONS

To subscribe to the Daily
Calendar, Bi-weekly Calendar,
Agenda or Draft Agenda items
contact (415) 703-1798.
Daily Calendar, CPUC Code, Rules of
Practice & Procedure on Internet:
<http://www.cpuc.ca.gov>

MAPS

Telephone Exchange/LATA

PER COPY

\$ 7.00

GENERAL ORDERS

General Orders Book \$15.00
G.O. leaflet- first copy FREE
- each additional copy .50

*****EXCEPT FOR*****

General Orders 95/128 combination

"Rules for Overhead Electric

Line Construction" \$20.00

MISCELLANEOUS

CPUC Handbook FREE
CPUC Code \$ 8.00
Rules of Practice and Procedure 5.00
Annual Report

- first copy FREE
- each additional copy 10.00
Telephone Directory 3.00
Standard Practice U-4 2.50

Business Plan

- first copy FREE
- each additional copy 10.00

LIST OF CARRIERS AND UTILITIES

Water and Sewer \$ 5.00

Gas and Electric 1.00

Telephone

(interexchange, competitive local)

EACH list 3.00

local, radio-telephone, cellular wholesalers,

cellular resellers) **EACH** list 1.00

UNIFORM SYSTEM OF ACCOUNTS

General Order 128 only	Water - Class A	\$ 5.00
"Rules for Construction of Underground	- Class B, C, & D	10.00
Electric Supply and Communication	Motor Carriers of Property	
Systems" \$ 5.00	- Class III	1.00
	Motor Carriers of Passengers	
	- Class II & III	1.00

Utilities not listed above:

Superintendent of Documents

U.S. Government Printing Office

P. O. Box 1533

Washington, D.C. 20013

MISCELLANEOUS REPORTS

Enhancing California's Competitive	Revenue Equipment Historical Cost	
Strength: A Strategy for Telecommunications	(Report 511-45)	\$15.00
Infrastructure (1993)		
first copy FREE; Addl.	Universal Service Report to the	
	Legislature (In Response to AB 3643)	
Guidelines for Prospective Non-Dominant	(12/95)	FREE
Interexchange and Intralata Toll Carriers		
(1994)	Report on Workshop for G.O. 153	\$ 7.00
Guidelines for customer owned pay		
telephone (COPT) owners		\$15.00

DOCUMENT ORDER FORM

DATE _____

PLEASE PRINT OR TYPE

NAME: _____

COMPANY: _____

ADDRESS: _____

TEL: _____

Document Name	Quantity	Unit Price	Total Price
tax included			TOTAL

Mail completed order form with check or money order to:

California Public Utilities Commission
Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102

c:\office\wpwin\wpdocs\docprice.wpd

Note: Documents require prepayment unless free. Prices are subject to change without notice. Intervenor who have filed "Notice of Intent to Claim Intervenor Compensation" will receive some documents free of charge upon request.

FINANCIAL REPORT OFFICE Room 3251

Office Hours 8:00 a.m. to 5:00 p.m.

(415) 703-1961

All privately owned utilities and motor carriers must file reports as prescribed by the Commission's general orders. These reports contain a balance sheet, income statements, depreciation, and other financial matters relating to the company's operation.

Types Of Reports

In Compliance With

Annual Financial Report

General Order 104

Monthly Report

General Order 65A

Quarterly Report

General Order 65A

Report Security Issuance

General Order 24B

Salaries, Donations & Contributions

General Order 77K

This office maintains ten years of reports for telephone, electric, and water utilities with thirty years on microfilm. Motor carriers of passengers and household goods carriers' monthly and quarterly reports are available for 5 years.

See Appendix, page 87 for the available reports. As only one copy of each report is stored at this location, all requests for reports must be in writing. The report will be reproduced and mailed to you at a cost of 20 cents per page. You may call the telephone number listed above to find out the number of pages in the report and the cost of handling. Please remit your check to the Fiscal Office.

CALENDAR CLERK Room 5013

OFFICE HOURS 8:30 a.m. to 5:00 p.m.

Closed 12 Noon to 1:00 p.m.

(415) 703-1203

The Calendar Clerk arranges for the setting of hearings as directed by the assigned Administrative Law Judge. The Calendar Clerk will contact the major parties to a proceeding to determine a mutually satisfactory hearing date. The office makes the necessary arrangements for hearings held elsewhere than the San Francisco or Los Angeles Commission courtrooms and coordinates with the Reporting Branch to ensure that a court reporter will be present to report the hearing. Upon request and whenever possible, it is the Commission's policy to schedule hearings, meetings, or workshops in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call the Public Advisor's Office. **If specialized accommodations for the disabled are needed, such as a sign language interpreter, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD (415) 703-2032 five working days in advance of the event.**

TARIFF SCHEDULES AND TARIFF SHEETS GENERAL ORDER 96-A

A tariff schedule is a document filed with the CPUC specifying the lawful rates, charges, rules, and conditions under which the utility must operate. Individual pages of the tariff schedule are referred to as tariff sheets.

The Commission's General Order Number 96-A outlines the general format of tariff schedules and establishes the procedures to be followed in filing and publishing them. Copies of the General Orders are available from the Document office. There is no charge for the first copy of most of the General Orders. You may also contact the Public Advisor's Office and request a copy of the General Order. As specified in General Order 96-A a tariff schedule must contain certain items:

The preliminary statement describes the territory served, the types and classes of service rendered, and the general conditions under which the service is rendered.

The rate schedule includes class of service, applicability, territory, rates, and special conditions.

The rules cover the application of all rates, charges and service not fully covered in the rate schedules. Some of the subjects covered in the rules are definitions, applications of service, contracts, establishment of credit, deposits, temporary service and line extensions.

In addition, sample forms, a list of contracts and deviations, service area maps and the table of contents are included in the tariff schedules.

Tariff schedules can only be changed after CPUC authorization, either through application or by advice letter filing. If the utility submits an **application** for a rate increase, the tariff schedules cannot be filed and the rates cannot be changed until the Commission has issued its decision authorizing that increase.

Some advice letters are filed with accompanying tariff sheets and the Commission staff is authorized to place the revised tariff sheets in the utility's tariff schedule. A formal application is not necessary in this case.

Each public utility (gas, electric, telecommunications, water, steam, sewer, pipeline, and household goods carriers) is required to maintain a copy of its complete tariff schedules and advice letters, as filed with the Commission, at its main office in California, and at its more important commercial offices within the territory served by the utility. You may contact the utility's offices if you have any questions on a current rate schedule or if you wish to review the utility's tariffs. You may also contact the Public Advisor's Office if you need help in understanding the tariffs or in locating the utilities' offices.

TARIFF UNITS IN SAN FRANCISCO GENERAL INFORMATION

It is best to call for an appointment to be sure staff will be available to help you find what you need. Questions about utility tariffs and charges should be directed to the Consumer Affairs Branch. Copies of resolutions and decisions are available at the Central Files Office at a cost of 20 cents a page with a minimum of \$2.00.

ENERGY DIVISION ROOM 4006 (415) 703-1691

Maintains tariffs for all of the regulated gas, electric, steam and pipeline utilities. They have the current tariffs, canceled tariffs, advice letter filings, resolutions and contract forms.

TELECOMMUNICATIONS DIVISION ROOM 3203 (415) 703-3073

Maintains tariffs for all of the telecommunication companies who have filed a Certificate of Public Convenience and Necessity to operate in the State of California. They have current tariffs, canceled tariffs, advice letter filings, resolutions and contract forms.

Local Telephone Companies - Local Exchange Carriers
Long Distance Companies - Inter Exchange Carriers
Radio - Mobile
Cellular - Including Resellers

WATER DIVISION ROOM 3106 (415) 703-2028

Maintains tariffs for the regulated water utilities and the regulated sewer companies. They have current tariffs, canceled tariffs, advice letter filings, and resolutions.

For Los Angeles tariff units see page 62 .

THE WRITTEN WORD

You should be aware of and become familiar with the following publications as you participate in CPUC proceedings.

The **Public Utilities Code** and **Article 12** of the **California Constitution** are the sources of the Commission's authority. The Codes are state laws (like the Civil Code and the Business and Professions Code) which are passed by the State Legislature. Article 12 is included in the Public Utilities Code Book.

The **CPUC Rules of Practice and Procedure** (Rules) explains procedural ground rules; such as, how to make a formal filing in a CPUC proceeding. Included is detailed information such as the form and size of filings, deadlines for filing, number of copies, and type of information required. A copy of the Rules is essential to anyone who wants to participate in a CPUC proceeding and is available without charge from the Public Advisor's Office in San Francisco or Los Angeles. The Rules of Practice and Procedure can also be found on the Commission's website at <http://www.cpuc.ca.gov>

General Orders are regulations, rules and standards adopted by the Commission that give specific direction to utilities on how to do a variety of things from filing new tariffs sheets with the Commission to specifications to build transmission lines, pipelines, water systems. A complete set of General Orders can be purchased from the Document Office for \$15.00. The first copy of most individual General Orders are free; additional copies are 50 cents each. See price list, page 50, for information on ordering General Orders 95 and 128.

Tariffs are the schedule of rates and rules that each utility files with the Commission. Information included in the tariffs are the rates, tolls, rentals, charges and classifications and rules enforced by a public utility. Also included in the tariffs are service area maps and a summary list of contracts and deviations.

The **Organization Chart** gives a brief description of the functions of each division. It includes a chart showing the chain of command and the relationship of the divisions within the Commission and it lists the staff and job titles within each division. A limited number of copies are printed each year and are available from the Management Services Division or the Public Advisor's Office as long as the supply lasts. The Commission's website also contains organization charts.

The **CPUC Telephone Directory** is published annually and lists all CPUC staff alphabetically along with the general information telephone numbers within each division. See page 55 for information on how to order, or see our website.

ALJ Rulings are available from the Administrative Law Judge Division or Public Advisor's Office.

Opinions (Decisions) and Orders of the CPUC can be found in most public law libraries. By legislative directive beginning January 1989, the CPUC must publish its orders and decisions within one year after issuance. Commission decisions are also available electronically on the LEXIS system found in county law libraries. Law libraries are located within most metropolitan areas and in San Francisco, Los Angeles, and San Diego are within walking distance of the Commission's offices. Some Commission decisions are also available on the Internet. (See page 64 for Internet locations).

THE LOS ANGELES OFFICE
320 West Fourth Street, Suite 500
Los Angeles, CA 90013
Office Hours 8:00 a.m. to 5:00 p.m.
(213) 576-7000

The Los Angeles office is the CPUC's main branch office. The office is staffed by approximately 100 employees representing every division within the Commission except Administrative Law Judge and Legal.

Central Files are located at the **Front Office**, Information Desk. Decisions, applications, and the case file index may be viewed in this area at the table provided for the public. Most applications, cases and transcripts are retained for three years. It is best to contact the Front Office or the Public Advisor's Office before coming in to make sure they have the information you need. They also sell General Orders, CPUC Codes, Rules of Practice and Procedure, and CPUC Annual Reports. You may file your formal complaint or any other pleadings at this location and pay for the postage to the San Francisco Docket Office. Blank subpoena forms may also be obtained from this office or from the Public Advisor's Office at no charge to you.

Personnel in the Los Angeles Office are not bonded; therefore, deposits or expenditures for amounts greater than \$20.00 must be made by check, money order, cashiers check, or , in some cases, Master Card or Visa. For purchases of Commission documents, photocopies, and Commission fees, Master Card and Visa are accepted in the office. Amounts owed to a utility cannot be charged on Master Card or Visa.

The **Public Advisor's** branch office is located here. If you need any help with filing a formal complaint or need assistance with your participation, contact this office (213) 576-7057. If you need general information about Commission proceedings and hearing dates, or if you need specialized accommodations for the disabled for hearings held in the Southern California area, contact this office.

The **Consumer Affairs Branch** answers inquiries and questions. In addition you may file an informal complaint with this branch. The numbers for Consumer Affairs are 800-649-7570 (toll free) and TDD (213) 897-0426. They take calls between 8:00 a.m. and 5:00 p.m., Monday through Friday.

The tariffs of all regulated utilities are also available. To research the tariffs call (800) 649-7570; they will assist you, and will answer your questions on gas, electric, telecommunications, water, steam, and pipeline tariffs.

If you have questions of a technical nature regarding telecommunications, gas or electric safety, personnel are available in the Los Angeles Office to help you. Contact the Consumer Affairs Branch **first**, if they cannot answer your inquiries they will refer you to staff engineers who handle these matters.

The Rail Safety and Carriers Division has a Passenger Carrier Enforcement Unit in Los Angeles. There is also a Household Goods Mover License Unit in Los Angeles. If you need assistance from any of these units, contact the front desk at (213) 576-7000 and they will connect you with the correct unit. Please contact San Francisco office at (415) 703-2063 to answer your question(s) on household goods,

passenger and utility matters. The trucking industry was deregulated on January 1, 1995. The licensing responsibility was transferred to the Department of Motor Vehicles, (DMV) in September, 1996. Please direct your questions regarding licensing to DMV Mail Station, G-875, 2415 1st Avenue, Sacramento, CA 95818.

CPUC FIELD OFFICES

LOS ANGELES

320 West Fourth Street, Suite 500
Los Angeles, CA 90013
(213) 576-7062

SAN DIEGO

State Building, Room 4006
1350 Front Street
San Diego, CA 92101
(619) 525-4217

CPUC OUTREACH OFFICES

The Commission has set up two offices to provide local access to CPUC services and information. CPUC outreach officers inform consumers on how to resolve complaints with utilities and how to take part in CPUC proceedings. They answer questions from the media and work with local government officials to answer constituent inquiries on CPUC-related matters. For help, write or call the Outreach Officer at one of the offices below:

Donna Silvestre, Outreach Officer
320 West Fourth Street, Suite 500
Los Angeles, CA 90013
213-576-7058
Internet: dds@cpuc.ca.gov

John Morgan, Outreach Officer
1350 Front Street, Room 4000
San Diego, CA 92101
(619) 525-4309
Internet: jml@cpuc.ca.gov

INFORMATION ON THE INTERNET

To provide the widest possible access to Commission documents, the CPUC posts some of them on the internet. Please check under "General and Consumer Information". You can access the Commission on the internet at:

ftp.cpuc.ca.gov

or

<http://www.cpuc.ca.gov/home> page files files/information.htm

Questions about access can be directed to, the Webmaster, Vickie Lachney at 415-703-2454, or by electronic mail to **val@cpuc.ca.gov** or **webmaster@cpuc.ca.gov**

INTERVENOR FUNDING

INTERVENOR FUNDING PROGRAM (PU CODE 1801-1812)

In order to promote public involvement in California Public Utilities Commission (CPUC) proceedings, the CPUC established an intervenor funding program within the statutory framework established by the Legislature (in SB4, Chapter 297, Statutes of 1985). The legislation codified many of the features of the Commission's earlier intervenor funding programs.

In 1992 the Legislature passed AB 1975 (Chapter 942, Statutes of 1992) which substantially amended Section 1801-1812 of the Public Utilities Code relating to intervenor funding. Early in 1993 in D.93-03-023 the Commission repealed its existing rules on intervenor compensation (Articles 18.5, 18.6, 18.7) and replaced them with Article 18.8 which defers to the new statute, CPUC Code Section 1801-1812. The Commission added several clarifying rules, 76.71- 76.76 of Article 18.8.

In 1997, the Commission instituted rulemaking, R.97-01-009 and opened an investigation, I.97-01-010. The intent is to review the intervenor compensation program to modify it to effectively promote consumer participation in Commission proceedings. In April, 1998, Decision D.98-04-059, adopted changes to the program and also suggested legislative amendments to broaden participation.

Under the changed procedures, scoping memos will be provided at the beginning of proceedings to inform parties what issues will be covered and thus subject to the recovery of intervenor compensation. Proceedings will be concluded in 12 months for enforcement and complaint cases, and 18 months for ratesetting or policy setting proceedings, barring unusual circumstances.

The Commission has encouraged legislative amendments to permit, when designated by the assigned Commissioner, the use of an optional "track" which would allow periodic payments to an intervenor during the course of a proceeding, with the total compensation "capped" at the amount of the intervenor's proposed budget, submitted with its notice of intent to participate in the hearing.

D.98-04-059 directed the Public Advisor to develop standard format(s) to comply with the matrix requirements in telecommunication roadmap proceedings. The standard format will help the intervenors record their compensation requests to facilitate the review process. Compensation request are broken down by issues, proceeding numbers, hourly rates and other miscellaneous expenses. (For more information, refer to D.96-06-029 dated June 6, 1996). The Public Advisor Office mailed the standard formats to the intervenors on August 31, 1998. Please see Appendix for standard formats.

For the full text of decision D.98-04-059, and D.96-06-029 contact the Commission's Central Files Unit.

In summary, the current intervenor funding program (described in Article 18.8 and the Public Utilities Code) provides after-the-fact funding to groups or individuals who have a financial hardship and who have made unique contributions to a decision adopted by the Commission. This program does not cover transportation matters, nor does it compensate complainants in their own complaint cases. The Advocates Trust Fund (see page 67) applies to compensation of expenses and

fees related to "quasi-judicial" complaint cases.

To be eligible to file for intervenor funding, an intervenor must first file a notice of intent to claim compensation. This must be filed within 30 days after the prehearing conference. Within 60 days after a Commission decision was mailed, an intervenor may file for a compensation award.

The notice of intent to claim compensation **must** include the following:

- a. A statement of the nature and the extent of the intervenor's planned participation in the proceeding as far as it is possible to set out when the notice to intervene is filed.
- b. An itemized estimate of the compensation that the intervenor expects to request, given the likely duration of the proceeding as it appears at the time.

The notice of intent **may** also include a showing by the intervenor that participation in the hearing or proceeding would pose a significant financial hardship. If this showing is not included in the notice of intent, then it must be included in the party's request for award, which follows the issuance of the final order or decision in the proceeding.

Steps in filing a Notice of Intent to Claim Compensation:

File, by sending to the Commission Docket Office:

1 original of:

- Intent to Claim Compensation
- Verification (you must sign it yourself)
- Certificate of Service (you can sign it yourself)
- Service List
- and 7 copies of the above documents

Serve, by mailing to each person on the service list, copies of:

- Intent to Claim Compensation
- Verification (you must sign it yourself)
- Certificate of service (you may sign it yourself)
- Service list

You are not required to serve copies to those who are listed as "information only" on the service list.

If you are considering filing for intervenor funding, Decision D.95-10-050 in Case C.92-09-024 (Grinstead vs. PG&E) contains valuable information and history and is the decision that concludes that an individual may not claim intervenor compensation in their own complaint. Contact the Public Advisor's Office or Central Files for a copy of this decision.

The Public Advisor's Office publishes annually an annotated bibliography of intervenor compensation decisions. Please contact the Public Advisor's Office for a copy or for assistance or information on participating in the intervenor funding program. The program has awarded over 17 million dollars to a wide variety of groups and individuals in the past 19 years.

ADVOCATES TRUST FUND (ATF)

The CPUC also administers the Advocates Trust Fund (ATF). The ATF was established in 1981 as a result of a complaint filed at the CPUC between the Consumer's Lobby Against Monopolies (CLAM) and Pacific Telephone. The fund was created "...to defray expenses, including attorney's fees and expert witness fees directly related to litigation or representation of consumer interest in 'quasi-judicial' complaint cases,...".

In 1992 in D.92-03-090 the Commission expanded the factors considered when making an award to give the Commission more discretion to award fees from the fund. The amendment allows fee recovery to parties even if they have an economic interest in the proceeding if the Commission finds good cause for it.

The bylaws of the fund provide that:

"Attorneys fees may be awarded only where it is clearly and convincingly demonstrated that the private party has made a direct, primary and substantial contribution to the result of the case. Fees will be awarded from the Advocates Trust Fund where complainants have generated a common fund but that fund is inadequate to meet reasonable attorney or expert witness fees where substantial benefit has been conferred upon a party or members of an ascertainable class of persons but no convenient means are available for charging those benefited with the cost of obtaining the benefit, or where complainants have acted as private attorneys general in vindicating an important principle of statutory or constitutional law, but no other means or fund is available for award of fees.

An award will be based upon consideration of four factors: (1) the strength of societal importance of the public policy vindicated by the litigation, (2) the necessity for private enforcement and the magnitude of the resultant burden on the complainant, (3) the number of people standing to benefit from the decision, and (4) the magnitude of the party's own economic interest in the litigation. No award will be made without a specific finding by the CPUC of what would be a reasonable amount for advocates', attorneys', or expert witness fees, in view of the time spent, expenses proven, level of skill shown, and comparable fees paid to others practicing public utility law."

Funds are awarded **only** if you prevail and **only** after the case is over. You must also meet the other criteria set forth in the ATF's Declaration of Trust.

The Advocates Trust Fund has awarded over \$275,000. The balance in the trust as of May, 2000 is approximately \$80,000.

If you have questions about this fund or want to receive a copy of the ATF's Declaration of Trust and by-laws, please contact the Public Advisor's Office.

TELEPHONE DIRECTORY

SAN FRANCISCO OFFICE - GENERAL INFORMATION 415-703-2782
State Building, 505 Van Ness Avenue FAX#415-703-1758
San Francisco, CA 94102

Executive Director 415-703-3808

Division of Administrative Law Judges 415-703-2008

Calendar Clerk 415-703-1203

Central Files 415-703-2045

Docket Office (Please call between 10:00 a.m. and 3:00 p.m. only) 415-703-2121

Process Office 415-703-2021

Legal Division 415-703-2015

Office of Public Advisor 415-703-2074

Communications Branch (News Bureau) 415-703-2423

Office of Ratepayer Advocates 415-703-2061

Transportation (General Information) 1-800-877-8867

Transportation (Household Goods Complaints) 1-800-366-4782

Annual and Other Financial Reports 415-703-1961

Document Sales 415-703-1713

Consumer Affairs Branch 415-703-1170
(Please call between 8:00 a.m. and 5:00 p.m. Monday through Friday) Toll Free-800-649-7570
TDD-415-703-2032

LOS ANGELES OFFICE - GENERAL INFORMATION 213-576-7000
320 West 4th Street, Suite 500 FAX#213-576-7059
Los Angeles, CA 90013

Commission Representative, Southern California 213-576-7064

Consumer Affairs Branch Toll Free-800-649-7570

(Please call between 8:00 a.m. and 5:00 p.m. Monday through Friday) TDD-213-576-7110

Office of Public Advisor 213-576-7057

OUTREACH OFFICES

320 W. Fourth St., Suite 500
Los Angeles, CA 90013

213-576-7058

1350 Front Street, Room 4000
San Diego, CA 92101

619-525-4309

MAJOR CALIFORNIA UTILITIES**GTE California Incorporated**

One GTE Place, RC 3300
Thousand Oaks, CA 91362
(805) 372-6000

Pacific Bell

140 New Montgomery Street
San Francisco, CA 94105
(415) 542-9000

Pacific Gas & Electric Company

77 Beale Street
San Francisco, CA 94106
(415) 973-7000

Sempra Energy

101 Ash Street
P. O. Box 1831
San Diego, CA 92112
(619) 696-2000

Southern California Edison Company

2244 Walnut Grove Avenue
P. O. Box 800
Rosemead, CA 91770
(626) 302-1212

Southern California Gas Company

555 W. Fifth Street
P. O. Box 3249, Terminal Annex
Los Angeles, CA 90051
(213) 244-1200

GLOSSARY

A

Adjudicatory proceedings are--(1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

Administrative Law Judge (ALJ)--A Commission staff member who serves as a hearing officer at formal CPUC proceedings. An ALJ conducts public hearings, issues subpoenas, questions witnesses, and prepares draft decisions and orders for the Commission's consideration.

Advice Letter--A filing by letter to make minor changes in rates and services which, unless ordered by the Commission, do not require formal public hearings.

Agenda--The notice of business to be considered and voted upon at the CPUC's formal decision-making meeting.

Annual Energy Rate (AER)--An electricity rate set once a year in energy cost offset proceedings which recovers a portion of the utility's forecasted fuel and purchased power expenses; it is set a year in advance and cannot be adjusted. The AER is intended to encourage electric utilities to manage prudently their energy expenses.

Appearance--A person or corporation who has become a party to a formal proceeding by submitting an appearance form to the ALJ at the time of hearing. Such a party may present evidence, cross-examine witnesses, sponsor witnesses, file briefs, and appeal the results of the proceeding.

Applicant--A person or utility filing a formal application with the CPUC seeking permission to do something.

Application--A formal, written request by a utility to establish or change rates, terms or conditions of service.

Attrition Rate Adjustment (ARA)--Raising or lowering a utility's rates to compensate for the effects of inflation.

B

Balancing Account--An account used to match the collection of actual revenues against actual costs after an adjustment for unanticipated changes in expenditures; fuel costs or major plant additions are often put into balancing accounts.

Benchmark Rate of Return - The percentage of rate of return that the Commission has set as the maximum earnings under the alternate Regulatory Framework that the carriers may retain without returning a portion of earnings to customers. Between the benchmark return and the earnings cap, 50%

of earnings are to be returned to customers; above the earnings cap, all earnings are to be returned to customers.

Brief--A document citing all facts and points of law relied on by a party in a formal proceeding. It is usually filed at the conclusion of the proceeding.

C

CAB--An acronym for the CPUC's Consumer Affairs Branch.

Complainant--A person or group which files a complaint charging a utility with a violation of a law, order, tariff, or rule of the CPUC.

Complaint--A charge by any person or group that a utility or transportation company under CPUC jurisdiction has violated the Public Utilities Code or an order or regulation of the Commission. Complaints are both formal or informal.

D

Daily Calendar--A listing of new filings, Commission meetings, Commission decisions, and the date, time and location of all hearings. The public may subscribe to the Daily Calendar on a daily or weekly basis.

Defendant--The entity, usually a utility, charged in a complaint proceeding with violating a law, order, tariff or rule of the Commission.

E

Electric Revenue Adjustment Mechanism (ERAM)--A balancing account that allows electric utilities a reasonable chance of earning their authorized return whether actual sales are higher than, lower than, or equal to the Commission's forecast. ERAM is being discontinued as the Commission shifts to Performance Based Ratemaking.

Energy Cost Adjustment Billing Factor (ECABF)--The positive or negative surcharge on customers' bills used to recover energy costs in rates.

Energy Cost Adjustment Clause (ECAC)--A rate adjustment mechanism whereby an electric utility periodically adjusts its rates to offset changes in the cost of energy used to produce electricity. As with ERAM (above) ECAC is being phased out.

Environmental Impact Report (EIR)--A statement of the environmental impact of a proposed project required by the National Environmental Policy Act (NEPA).

Evidence--Oral testimony, written documents, or physical materials included in the record of a formal proceeding.

Exhibit--A physical object, usually in writing, offered as evidence in a hearing.

Ex Parte--A type of Commission order or decision issued without a public hearing, generally when it is clear that the matter has no opposition. Also used to describe contact between a party to a proceeding and a decisionmaker off the record and outside the presence of other parties.

Expedited Complaint Procedure (ECP)--A procedure for handling quickly formal complaint cases involving less than the limit of the Small Claims Court, currently \$5,000. The ECP ensures a hearing, without a court reporter, within 30 days after an answer to a complaint is filed. Only the complaint and the answer are heard; the parties represent themselves. An ALJ prepares a draft decision, and the final decision is made by the Commission.

F

Federal Communications Commission (FCC)--The federal agency that has jurisdiction over the rates and services of interstate telecommunications.

Federal Energy Regulatory Commission (FERC)--An independent regulatory body within the federal Department of Energy which regulates interstate gas and electric rates and facilities, as well as hydroelectric plant licenses.

Formal Complaint--A formal charge that a utility, motor carrier or person (the defendant) has violated the Public Utilities Code or some order or regulation of the Commission. The complaint must be in writing, be in accordance with the Commission's Rules of Practice and Procedure and be made under oath. The proceeding ordinarily requires public hearing and a Commission decision.

Formal Decision--The final action taken on a pending application or other proceeding and signed by a majority of the commissioners.

Full Panel Hearing--The commissioners sitting as a group in formal session, usually to hear oral argument in a major proceeding.

G

General Order--A Commission order which sets standards, procedures or guidelines applicable to a class of utilities, as distinguished from a decision affecting only a single utility.

General Rate Case--A proceeding in which the Commission takes a broad, in-depth look at a utility's revenues, expenses and financial outlook and considers quality of service and other factors to arrive at just and reasonable rates. Traditionally, these have been the major regulatory proceedings that come before the Commission.

I

Impound--Money deposited with the Commission by customers who dispute their bill, but who wish to continue utility service. Also called deposits.

Informal Complaint--In response to a customer complaint which has not been resolved between the customer and the utility, CPUC staff seek to resolve a problem through informal contact with the utility and without a public hearing or commission order. Informal complaint files are not available for public inspection.

Interested Party--An individual or group appearing in a formal proceeding without declaring, in advance, a position for or against a proposal in question.

Interstate Commerce Commission (ICC)--The federal agency which regulates interstate trucking companies, bus lines, and railroads.

L

Lawful Rate--A just, reasonable, and nondiscriminatory rate approved by the Commission.

M

Major Additions Adjustment Clause (MAAC)--A procedure to enable utilities to recover the cost of owning, operating and maintaining certain designated major plant additions that are placed in service between General Rate Cases (e.g. San Onofre Nuclear Generating Station). A MAAC proceeding is often divided into two phases: the first phase covers ratemaking features for recovery of costs of operating and maintaining the new facility, and capital costs; the second phase deals with the reasonableness of the new plant's construction.

Meetings--Official sessions of the Commission, held about every two weeks, to which the public is invited to observe and comment. Proposed decisions, orders, and resolutions may be discussed and voted upon.

N

New Regulatory Framework (NRF)--New regulatory framework adopted in D.89-10-031. It is an incentive based form of regulation using a price cap indexing mechanism.

Notice of Intent (NOI)--Preliminary data filed by a utility in preparation for the formal filing of a general rate increase application.

O

Order Instituting Investigation (OII)--A Commission-initiated proceeding that considers specific utility matters.

Order Instituting Rulemaking (OIR)--A Commission-initiated proceeding that proposes certain rules and requests comment by the parties.

Overcharge--Any rate charged by a public utility or carrier in excess of its authorized tariff rates.

P

Petitioner--Any party who files a petition in a CPUC proceeding, such as a petition to modify a Commission decision, or a petition to intervene in a proceeding.

Pleading--A general term which refers to a document filed with the Commission, including applications, complaints, petitions, motions and usually requesting some action from the Commission.

Prehearing Conference--A formal hearing at which the parties determine the scope and nature of a proceeding and at which a schedule for the proceeding is established by the ALJ.

Protestant--A party who files a protest to an application or other filing by another party.

Q

Quasi-legislative proceedings--Proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

R

Rate Base--The total of original cost of a utility's investment in operative property presently devoted to public service, minus the amount of accrued depreciation on such property, plus an allowance for working capital, plus or minus certain other items. This investment base is the amount to which the rate of return is applied.

Rate Design--The process of setting rates to recover the allocated amount of revenue from each customer class.

Rate of Return--Percentage allowed by the Commission as a fair and reasonable return on rate base. This rate of return may vary with types and sizes of utilities or other circumstances. The utility may or may not actually earn this rate of return, depending upon conditions and its management decisions.

Ratesetting proceedings--Proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future.

Return on Equity--The profits distributed to common shareholders after all expenses, interest costs and preferred stock dividends have been paid. In ratemaking, it represents the level of revenue needed that will permit equity stockholders the opportunity to earn a fair return on their investment in the utility.

Revenue Requirement--The total amount of revenue needed to pay all operating and capital costs of doing business.

Rules of Practice and Procedure--The rules in Title 20, California Code of Regulations, governing the conduct of utilities, transportation companies, and the public in proceedings before the CPUC.

S

Serve--To deliver by mail, in person or by electronic means.

Statement--Unsworn view or opinion offered at a public hearing, made part of the file but not subject to cross-examination. (Also see Testimony)

T

Tariff--A document filed by a utility with the CPUC which specifies lawful rates, charges, rules and conditions under which it will provide services to the public.

Test Year--A 12-month operating period used to evaluate the cost of service and adequacy of present or proposed rates. Generally used as the basis for general rate case calculations.

Testimony--A declaration, oral or written, given under oath at a public hearing and subject to cross-examination. (See Statement)

BIBLIOGRAPHY

California Public Utilities Commission Organization Charts, 1994

(Available from San Francisco and Los Angeles Offices as long as the supply lasts)

Consumer Guide to the California Public Utilities Commission- A Handbook (available from San Francisco and Los Angeles Offices and on the Commission website www.cpuc.ca.gov under ("General and Consumer Information"))

California Public Utilities Brochure, (available in English or Spanish from the CPUC News Bureaus in San Francisco, 415-703-2669, and in Los Angeles, 213-576-7051)

California Public Utilities Commission Annual Report (available from News Bureaus in San Francisco, 415-703-2669 and in Los Angeles, 213-576-7051)

Resource An Encyclopedia of Energy Utility Terms, January 1992

Pacific Gas and Electric Company

77 Beale Street

San Francisco, CA 94106

California Public Utilities Commission General Orders

(Available from San Francisco and Los Angeles Offices)

State of California Public Utilities Code and Related Constitutional Provisions, 1998

(Available from San Francisco and Los Angeles Offices and on the Commission's website)

State of California Public Utilities Commission Rules of Practice and Procedure (Title 20), January 1998, including revisions through October 1998.

(Available from San Francisco and Los Angeles Offices and on the Commission's website)

Briefing Paper The Energy Cost Adjustment Clause: Regulation of Energy Costs of Electric Utilities in California, November 1989

Fuels Branch-Division of Ratepayer Advocates

(Available from the Public Advisor's Office)

California Public Utilities Commission

Intervenor Compensation Decisions Annotated Bibliography 1981-1999

(Available from the Public Advisor's Office)

California Public Utilities Commission 1999-2000 Business Plan

(Available from the Public Advisor's Office and on the Commission's website)

Vision 2000: A Report On Our Progress Toward Change

(Available from the Public Advisor's Office)

APPENDIX

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Appearance Form Front

Appearance Form Back

SAMPLE DATA REQUEST

NOTE: Data requests need **not** be served on all parties.

Date

LEGAL DEPARTMENT

(Name of Utility)

(Address of Utility)

Dear Sir:

In connection with my pending complaint. Case (C. 86-__-__), I hereby make a formal data request.

1) All documents concerning _____.

2) (Be sure to be as specific as you can)

3)

4)

Please provide this information to me as soon as possible so that I might prepare my case for hearing.

Thank you for your prompt reply.

Sincerely,

J.Q. Public

cc: ALJ

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

Enclosed is the subpoena you requested.

The original is to be shown to the person subpoenaed, but retained by the process server and returned with an affidavit of service to the Commission on completion of service.

A copy of the subpoena is presented to the person served.

Very truly yours,

Lynn T. Carew
Chief Administrative Law Judge

Enclosure

Subpoena Requested by:

(Name)

(Address)

(Telephone No.)

Representing: _____
(Complainant, Defendant, Other)

Public Utilities Commission Of The State Of California

(Caption of Proceeding)

(Proceeding Number)

**SUBPOENA OR
SUBPOENA DUCES TECUM**

Hearing Deposition

THE PEOPLE OF THE STATE OF CALIFORNIA,

TO: _____

You are ordered to appear before the California Public Utilities Commission, located at _____
(Address)

_____ on _____ at _____
(Date) (Time)

to testify as a witness in this matter unless you make a special agreement with _____
(Name of Attorney or

_____ to appear at another time. You are:
Party requesting Subpoena)

____ Ordered to appear in person.

____ Ordered to appear in person and produce the records described in the attached affidavit. The personal attendance of the custodian or other qualified witness and the production of the original record is required by this subpoena.

____ Not required to appear in person if you produce the records described in the attached affidavit in compliance with Evidence Code Sections 1560 and 1561.

If you have been subpoenaed as a witness, you are entitled to witness fees and mileage actually traveled, as provided by law. You

may request one day's witness and mileage fees for travel to and from the place you are required to appear. You may demand these fees at the time of service from the process server or from the party or attorney requesting the subpoena. If they are not paid or tendered at that time, or unless the subpoena was obtained by the Commission staff, you are not required to appear (Public Utilities Code Section 1791).

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COMMISSION.

By order of the Public Utilities Commission of the State of California. Given under the seal of this Commission this _____ day of _____, 19____.

(See reverse)

Chief Administrative Law Judge

PROOF OF SERVICE OF SUBPOENA

I served this ____ subpoena/____ subpoena duces tecum and supporting affidavit delivering a copy personally to the person served as follows.

Person served (name)_____

Address where served _____

Date of delivery _____

Time of delivery _____

Witness fees (check one)

____ Were demanded and paid or tendered (Amount \$_____)

____ Were not demanded or paid

Fees for service \$_____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on

(Date)

(Signature)

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of PACIFIC GAS AND ELECTRIC COMPANY'S (PG&E'S) CONCURRENT OPENING BRIEF in A.91-11-036 to be mailed by first-class mail to each of the parties of record in this proceeding.

Executed at San Francisco, California, March 1, 1996

Signature

VERIFICATION

(For Individuals or Partnerships)

I am (one of) the complainant(s) in the above-entitled matter; the statements in the foregoing document are true of my knowledge, except as to matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, at _____, California.

Complainant

(If more than one complainant, only one need sign)

VERIFICATION

(For a Corporation)

I am an officer of the complaining corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, at _____, California.

(Signature & Title of Corporate Officer)

NOTICE

Parties of Record should notify the PROCESS OFFICE of the PUBLIC UTILITIES COMMISSION of any change of address to insure continuous receipt of documents.

Please indicate PROCEEDING NUMBER of Applications, Cases, etc. of the SERVICE LIST on which your name appears. Address all changes to:

PUBLIC UTILITIES COMMISSION

PROCESS OFFICE

505 VAN NESS AVENUE, RM. 2000

SAN FRANCISCO, CA 94102

and please attach your old label below:

Old Label - Thank You

SERVICE LIST INFORMATION

Appearance (Party status)-Appearances are parties with all attendant rights and obligations. The terms “Appearances” and “parties” are used interchangeably in this context.

This category initially includes those who have filed an application, protest or motion to intervene. To remain in this category, those who have filed one of these documents must file a formal appearance at the first hearing. If you have not filed an application, protest, or motion to intervene, but wish to become an active party, you must attend a prehearing conference or hearing and file an appearance at the direction of the Administrative Law Judge.

Appearances receive exhibits, testimony, all formally filed documents including pleadings, motions, rulings, proposed decisions and Commission decisions. Parties are required to serve their pleading on all other parties (i.e. Appearances) and on those in the State Service category.

State Service (Non-party status)-those in this category are Commission staff members, divisions or branches; Legislators or their staff members; and state agencies or their staff members which have indicated in writing to the Process Office that they wish to be included in this category to monitor a proceeding.

Although not required to file an appearance, those in the State Service category receive the same documents as Appearances, and parties are required to serve their pleading on all those included in the State Service category. However, those included in the State Service category may not file pleading, and they are not parties to the proceeding.

Information Only (Non-party status)-those in this category will receive all Commission generated notices of hearing, Rulings, proposed decisions and Commission decisions at no charge. Parties are not required to serve their pleadings on those included in the Information Only category.

Requests to be added to the Information Only category may be made by letter to the Commission’s Process Office at 505 Van Ness Avenue, San Francisco, CA 94102, (415) 703-2021.

FINANCIAL REPORT SECTION

REPORTS

FORM NUMBER	FORM TITLE
WU-1	ANNUAL REPORT--CLASS A, B AND C--WATER UTILITIES
AFR-1	ANNUAL FINANCIAL REPORTS (1986)
MCP-1	ANNUAL REPORT CLASS II AND CLASS III--MOTOR CARRIERS OF PASSENGERS
VCC-1	ANNUAL REPORT CLASS A AND B--VESSEL COMMON CARRIERS
VCC-2	ANNUAL REPORT CLASS C--VESSEL COMMON CARRIERS
DWSO-1	ANNUAL REPORT OF DISTRICT WATER SYSTEM OPERATIONS
FERC FORM #2	FERC FORM NO. 2: ANNUAL REPORT OF MAJOR NATURAL GAS COMPANIES
FERC FORM 2-A	FERC FORM NO. 2-A: ANNUAL REPORT OF NONMAJOR NATURAL GAS COMPANIES
GU-1	ANNUAL REPORT CLASS C AND D--GAS UTILITIES
WU-2	ANNUAL REPORT CLASS D--WATER UTILITIES
MCP-1	ANNUAL REPORT CERTIFIED AND PERMITTED MOTOR CARRIERS OF PROPERTY
FERC FORM #6	FERC FORM NO. 6: ANNUAL REPORT OF OIL PIPELINE COMPANIES (FORMERLY ICC FORM P)
EU-1	ANNUAL REPORT (SYSTEMS OPERATIONS) CLASS C AND D ELECTRIC UTILITIES
EU-2	ANNUAL REPORT CLASS A AND B--ELECTRIC UTILITIES
TU-1	ANNUAL REPORT CLASS C--TELEPHONE UTILITIES
FORM M	ANNUAL REPORT FORM M--(FEDERAL COMMUNICATIONS COMMISSION)
FORM L	CPUC ANNUAL REPORT OF RADIOTELEPHONE UTILITIES
FORM R-1	ANNUAL REPORT CLASS I--RAILROADS
MP-1	ANNUAL REPORT (MP-1) CLASS I--MOTOR CARRIERS OF PASSENGERS
CC-1	ANNUAL REPORT (ATTACHMENT A)--CELLULAR COMMUNICATIONS RESELLERS
CC-2	ANNUAL REPORT--CELLULAR COMMUNICATIONS LICENSEES (WHOLESALE)
ITC-1	ANNUAL REPORT (ATTACHMENT A)--ALL CALIFORNIA INTEREXCHANGE TELEPHONE CARRIERS

Public Utilities Commission of the State of California

Wesley M. Franklin, Executive Director

Headquarters

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2782

Southern California Office

107 So. Broadway, Room 5109
Los Angeles, CA 90012
(213) 897-2973

Website: <http://www.cpuc.ca.gov>

Daily Calendar Monday, April 20, 1998

Regular Commission Meetings

- ? Notices
- ? Glossary
- ? Subscription Information (Daily Calendar and Agenda)
- ? Commissioner Office Hours
- ? Public Meetings and Workshops
- ? New Filings
- ? Petitions for Modification of Applications for Rehearing
- ? Draft Decisions/Proposed Decisions/Alternates/Arbitrator's Reports
- ? Advice Letter Filings
- ? Miscellaneous Transportation Items
- ? Adjournments/Resettings/Submissions
- ? Removals from Calendar
- ? New Settings
- ? Law and Motion Hearings
- ? Hearings
- ? Notice of Denial of Request for Ex Parte Meeting
- ? Notice of All-Party Meetings (PU Code §1701.3(c))
- ? Notice of Ex Parte Communications



The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call (415) 703-1203. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

?REGULAR COMMISSION BUSINESS MEETINGS

April 23, 1998	10 am	Sacramento**
May 7, 1998	10 am	San Francisco

***Will be held at the State Board of Equalization, 450 N Street, Sacramento, CA 95814*

COMMISSION RATESETTING DELIBERATIVE MEETINGS (Not Open to the Public)

Ratesetting Deliberative Meeting dates are reserved as noted but will only be held if there are ratesetting matters to be considered.

April 20, 1998	1:30 pm	San Francisco
May 4, 1998	1:30 pm	San Francisco

NOTICES

Delivery of Formal Pleadings for Filing

Unless otherwise directed, all *courier-delivered documents* submitted for filing as part of the formal record in a proceeding should be *hand-carried directly* to the Commission's Docket Office, Room 2001, 505 Van Ness Avenue in San Francisco; Room 5109, 107 South Broadway in Los Angeles; or Room 4006, 1350 Front Street in San Diego. All *documents sent through the mail* for formal filing should be addressed *ONLY* to the Commission's Docket Office, Room 2001, 505 Van Ness Avenue, San Francisco, CA 94102.

The Payphone Service Provider's Enforcement Committee has proposed a Charter for approval by the CPUC. A protest must be made in writing and received within 20 days from the date of this calendar item. Protest must be delivered to Director, Telecommunications Division, 505 Van Ness Ave., Room 3203, San Francisco, CA, 94102.

Charge for Commission Documents

To purchase Commission documents, there is a charge of 20 cents a printed page (postage prepaid) with a minimum purchase of \$2.00.

GLOSSARY

After January 1, 1998, the California Public Utilities Commission is required by statute (SB 960) to categorize each case that comes before it. There are three categories, quasi-legislative, adjudicatory and ratesetting. If a case does not require hearings before it is resolved, the case is removed from the SB 960 category requirements. The legend below shows the abbreviation for each of the categories and provides a brief explanation.

- Q **Quasi-legislative** proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.
- A **Adjudicatory** proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.
- RS **Ratesetting** proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). Ratesetting proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future.
- N/A Removed from the SB 960 category requirements.

SUBSCRIPTION INFORMATION

Subscription Notice for Draft Agenda Items

In compliance with Public Utilities Code Section 311.5, parties who wish to subscribe to receive draft agenda items may do so by writing to the Public Utilities Commission; Attention: Poly Arca, Room 1003; 505 Van Ness Avenue; San Francisco, CA 94102; or by calling (415) 703-1798. The cost for a one-year subscription to the entire public agenda package (which excludes Executive Session materials) is \$1,000. You may also order a partial agenda package (energy agenda items only or telecommunication agenda items only) at the cost of \$500 per year. The package you receive via mail will include only those agenda items available at the time of the agenda distribution date, which is usually 10 to 12 days prior to the Commission meeting. If agenda items (including revisions) are not ready on the distribution date, they will be made available at no charge in the lobby outside the Commission

Auditorium at 9:00 a.m. on the morning of the Commission meeting, but not earlier.

In addition, the Commission will make draft agenda items available for viewing and photocopying (at 20 cents per page) at the Commission's Central Files Office (Room 2002), 505 Van Ness Avenue, San Francisco, and in the Los Angeles, San Diego, and Sacramento field offices. Since the agenda package will be mailed to these locations, it will be available at these locations a day or two after the distribution date. These locations will not receive agenda items that are not ready on the distribution date.

If an agenda item is held over to a subsequent Commission meeting, that agenda item and any revisions to that agenda item that were available on the morning of the initial Commission meeting (as well as any further available revisions) will be mailed in the Escutia package for the subsequent Commission meeting; the item and its revisions will also be available for viewing and photocopying in the Commission's Central Files Office and field offices as set forth above.

Intervenors who have a financial hardship determination pending or granted shall be eligible to receive draft agenda item packets at no charge.

The cost to receive the agenda only, without copies of draft agenda items, remains at \$75 per year.

Subscription Notice for Daily Calendar and/or Agenda

Parties who wish to subscribe to the Daily Calendar and/or the Agenda may do so by writing to the Public Utilities Commission; Attention: Poly Arca, Room 1003; 505 Van Ness Avenue; San Francisco, CA 94102; or by calling (415) 703-1798. The subscription cost for the Daily Calendar is \$225 per year. The Biweekly Daily Calendar is \$50 per year. The Agenda is \$75 per year. Checks are to be made payable to the Public Utilities Commission.

COMMISSIONER OFFICE HOURS

(For further information or to make an appointment, please contact, Michelle Diamonon at (707) 445-7875 for Eureka and Chico locations, and Sandra Graham at (213) 897-3544 for other locations).

<u>Date/Time</u>	<u>Commissioner</u>	<u>Location</u>
5/13/98, 1 pm - 3 pm	Henry Duque	City Hall, 2 nd floor 13230 East Penn Street Whittier

PUBLIC MEETINGS & WORKSHOPS

Public Meeting

<i>April 23, 1998 10 am - 2:30 -pm</i>	<i>California Public Utilities Commission 505 Van Ness Avenue, Room 4206 San Francisco</i>
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The Payphone Service Providers Enforcement Subcommittee will conduct a monthly meeting. For more information, please contact Adam Thaler at (415) 703-1157.

Workshop Notice

<i>April 28, 1998 9 am</i>	<i>California Public Utilities Commission 107 South Broadway Room 1120 Los Angeles</i>
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The Utilities Safety Branch staff will conduct a workshop to address the development and expansion of programs to increase public education and awareness of the hazards of the proximity of trees and vegetation to utility overhead power lines. The workshop is open to the public and meeting room is wheelchair accessible. For more information contact Fadi Daye at (213) 897-8420.

Public Workshop

<i>April 29, 1998 9 am - 10 am</i>	<i>California Public Utilities Commission 505 Van Ness Avenue Room 2204 San Francisco</i>
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The Utility Safety Branch will conduct a workshop to discuss informal application filed by Mr. Rick Thurber of P. O. Box 31303, San Francisco seeking Commission approval for posting 4" x 6" vinyl decals on utility poles within the City and County of San Francisco. Mr. Thurber asserts that these decals will not interfere or hinder pole climbers and therefore pose no safety hazard. The workshop is open to the public. For additional information and registration contact Alok Kumar at (415) 703-1126 or Mahendra Jhala at (415) 703-1178.

NEW FILINGS

4/8/98	A97-12-021	Amendment - Pacific Bell, for authority to lease 428 square feet of space to Cross County Wireless, Inc.; Amends to request authority to lease space to CCW, in the event that CCW is sold; includes an
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updated executed lease agreement

4/16/98	C98-04-021	Independence Civic Club vs. GTE California, Inc., for unduly restricting calling area - for making cost of telecommunications
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PETITIONS FOR MODIFICATION AND APPLICATIONS FOR REHEARING

4/2/98	A96-12-009	Pacific Gas and Electric Company, to identify and separate components of electric rates effective January 1, 1998,
	A96-12-011	San Diego Gas and Electric Company, for authority to unbundle rates and products, and
	A96-12-019	Southern California Edison Company, proposing the functional separation of cost components for energy, transmission and ancillary services, distribution, public benefit programs and nuclear decommissioning, to be effective 1/1/98 in conformance with D95-12-036 as modified by D96-01-009, the 6/21/96 ruling of assigned Commissioner Duque, D96-10-074, and AB 1890; Petition for modification of D97-08-056 by Pacific Gas and Electric Company

**DRAFT DECISIONS * PROPOSED DECISIONS * ALTERNATES *
ARBITRATOR'S REPORTS**

NONE

ADVICE LETTER FILINGS

To inquire about a filing, call the Energy Division (703-1093), Telecommunications Division (703-1889) or Water Division (703-2028).

To protest a filing, mail the original letter/telegram to the Chief of the appropriate division (i.e., "Chief, [Energy, Telecommunications or Water] Division"), to be received no later than 20 days after the date the Advice Letter was filed.

"Effective TBD" means that the date is to be determined by further Commission action. A date listed as "anticipated effective" may be subject to change. An Advice Letter Supplement is not a new filing, and there is no protest period unless indicated.

04/16/98	Energy 2077	PACIFIC GAS & ELECTRIC COMPANY, Rule 23, to remove and clarify redundant language reference billing of
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Core Transport Group.
(**anticipated effective 05/26/98**)

04/16/98	Telecom 19376	PACIFIC BELL, Modification of a contract with a government agency for Centrex (effective TBD)
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ADVICE LETTER PROTESTS

To inquire about a protest, call the Energy Division (703-1093), Telecommunications Division (703-1889) or Water Division (703-2028). To obtain a copy of the protest, please direct your request to the protestor.

NONE FILED

MISCELLANEOUS TRANSPORTATION ITEMS

April 20, 1998

Filings with Rail Safety and Carriers Division

04/09/98	TCP-11743-C	Robert Edward Seddon., DBA Airventure Balloon Tours, Address: 46096 Mesa Verde Trail, Indio CA 92201, Terminal Address: same, Tel.(760) 342-2742; filed application for Class C Certificate
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ADJOURNMENTS * RESETTINGS * SUBMISSIONS

198-03-012	Bennett-Commission Order Instituting Investigation, Mike Amos Galam, Telephone Prehearing Conference continued to 1:30 p.m., May 4, San Francisco
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REMOVALS FROM CALENDAR

NONE

NEW SETTINGS

6/17/98 ALJ Malcolm Commr Knight	10:00 am C94-12-042	(EH) -Credit Bureau Northern California vs. U.S. Sprint Communications Company, for failure to comply with the terms of Agreement; to refund service charges of over \$20,000 and sign up rebate of \$10,000, Commission Courtroom, San Francisco
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LAW AND MOTION

Law and Motion Hearings are held before Administrative Law Judge Steven Kotz at 9:30 am in one of the Commission's San Francisco Office Hearing Rooms, unless otherwise noted. Law and Motion procedures are governed by Resolution ALJ 164. Copies of Resolution ALJ 164 are available from the Commission's Documents Desk (415) 703-1713 or from Central Files (415) 703-2045

4/21/98 9:30 am NONE SCHEDULED

4/28/98 9:30 am NONE SCHEDULED

HEARINGS

Dates in parentheses following the word "also" are subject to change without notice. the assigned Commissioner's name is listed next to the proceedings as matter of record; the assigned Commissioner may not be present at the hearing.

(PHC) = Prehearing Conference

(EH) = Evidentiary Hearing

(PPH) = Public Participation Hearing

(IAM) = Initial Arbitration Meeting

(M) = Mediation

(OA) = Oral Argument

(WS) = Workshop

(FPH) = Full Panel Hearing

(AH) = Arbitration Hearing

4/20/98 1:30 pm **(OA)**-Southern California Gas Company, for authority to
A96-03-031 revise its rates effective January 1, 1997, in its Biennial
Cost Allocation Proceeding, for a total reduction in
annual revenues of approximately \$147.9 million (5.7%),
(OA)-San Diego Gas & Electric Company, for authority
A96-04-030 to revise its rates effective January 1, 1997, in its Biennial
Cost Allocation Proceeding for an approximately \$42
decrease over presently authorized revenues **(Oral
Argument on Application for Rehearing of
Decision 97-04-082),
Hearing Room A, Commission Courtroom, San
Francisco**

4/21/98 9:00 am **(PHC)**-Utility Audit Company, Inc., vs. Southern
ALJ Ryerson- C98-02-044 California Gas Company, for overcharging Parkwest

Commr Duque		Apartments, seeking order for Southern California Gas Company to make refunds to Parkwest, Prehearing Telephone Conference (ALJ Ryerson will initiate the conference call from Room 5043)
4/23/98 ALJ Garde Commr Neeper	9:30 am C97-05-012	(EH) -Robert and Lorraine Cooke and Marian and Sheldon Bramlett vs. Arrowhead Manor Water Company and Lance Johnson, to repair the water supply system, Community Services Building, 840 Willow Creek Road, Lake Arrowhead
4/23/98 ALJ Bennett Commr Neeper	6:00 pm C97-03-034	(PPH) -County of Riverside Department of Environmental Health vs. Spring Crest Water & Power Company, for failure to comply with minimum water quality and quantity requirements as contained in Title 22 of the California Code of Regulations, Lewis-Polk & Assoc., Inc., 42427 Rancho Mirage Lane, Rancho Mirage (EH) for 10 am, April 24, Council Chambers, 69825 Highway 111, Rancho Mirage
5/1/98 ALJ Barnett	12:30 pm C98-03-055	(ECP) -Rodney W. Lucas and LaDonna M. Lucas vs. Southern California Gas Company, for refund of the overbilled amount of \$194.91, Commission Courtroom, Los Angeles

NOTICE OF DENIAL OF REQUEST FOR EX PARTE MEETING

*On September 20, 1996, the Commission adopted Resolution ALJ 169 regarding the "Filing of Notice of Denial of Request for Ex Parte Meeting". The resolution implements an interim procedure whereby a party whose written request for an ex parte meeting with a Commissioner has been denied will be allowed to file a notice of such denial. Copies of Resolution ALJ 169 are available from the Commission's Central Files Office at 505 Van Ness Avenue, Room 2002, San Francisco; telephone (415) 703-2045. **Copies of tendered notices are available in the Central Files Office for review and/or reproduction under existing procedures. They are also available from the filing party who is under the obligation to provide copies of the notice without delay.***

NONE FILED

NOTICE OF ALL-PARTY MEETINGS (PU Code § 1701.3(c))

NOTICE OF EX PARTE COMMUNICATIONS

Copies of tendered notices are available in the Central Files Office for review and/or reproduction under existing procedures. They are also available from the filing party who is under the obligation to provide copies of the notice without delay.

4/16/97	A97-10-081	San Diego Gas & Electric Company, for approval of Biennial Resource Plan Update (BRPU) Settlements
	A97-05-027	Southern California Edison Company, for an order approving the settlement agreements between Southern California Edison Company and winning bidders in Edison's biennial resource plan update auction.

Summary: On April 14, 1998, David Simpson of Young, Voel, Harlick, Wilson and Simpson LLP, attorneys for CalWind Resources, Incorporated and Windland Incorporated (hereinafter collectively referred to as the "Renewable Producers"), met with Commr. Neep in San Francisco. Also present were: David Gammon, advisor to Commr. Neep; Douglas Levitt, representative of CalWind Resources; and Roald Doskeland, representative of Windland incorporated. Written materials (attached to the notice) were used. The Renewable Producers urged the Commission to hold hearings on the validity of the Biennial Resource Plan Update "winning" wind bids

Filer: CalWind Resources, Incorporated and Windland Incorporated

Contact: Martina Hassett

Phone: (415) 291-1970

LOCATING INFORMATION AT THE CPUC

CENTRAL FILES (415) 703-2045 Room 2002

- * Applications
- * OIIs
- * OIRs
- * Exhibits
- * Transcripts
- * Decisions
- * All other original filings pertaining to CPUC formal proceedings

Access: by proceeding number by company name

DOCKET OFFICE (415) 703-2121 Room 2001

(Please call between 10:00 a.m. and 3:00 p.m. only)

A docket card on each application, investigation, and complaint contains

- * Name of outside party
- * Assigned Commissioner and ALJ
- * Dates of filings and other relevant activity
- * One line summary of decision

Access: The Docket Clerk will look up the proceeding number under company/ complainant name; and look up the docket card by proceeding number for you.

FINANCIAL REPORTS OFFICE (415) 703-1961 Room 3251

- * Annual financial reports
- * Monthly financial reports
- * Stockholders Reports
- * FERC Form 1 & 2 reports

Access: by company and date

DOCUMENTS - MANAGEMENT SERVICES (415) 703-1713 Lobby

- * Maps
- * General orders
- * Lists of carriers and utilities
- * CPUC Code
- * Commission Annual Report
- * Rules of Practice and Procedure

